

**JACKSON, KY
Instruction Sheet
2022 S-10 Supplement**

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CITY OF JACKSON, KENTUCKY

CODE OF ORDINANCES

Supplement 2022 S-10 contains:
Local legislation current through Ord. 092320, passed 9-23-20
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AMERICAN LEGAL PUBLISHING CORPORATION

525 Vine Street, Suite 310 Cincinnati, Ohio 45202-3909 (800) 445-5588

ORDINANCE NO. 111594-A

ENACTING AS AN ORDINANCE, A CODE OF ORDINANCES FOR THE CITY OF JACKSON REVISING, AMENDING, RESTATING, CODIFYING, AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES OF THE CITY DEALING WITH SUBJECTS EMBRACED IN SAID CODE.

WHEREAS, the present general ordinances of the City of Jackson are incomplete and inadequate and the manner of arrangement, classification and indexing thereof is insufficient to meet the immediate needs of the City; and

WHEREAS, the Acts of the State Legislature of the State of Kentucky empower and authorize the City Legislative Body of this City to revise, amend, restate, codify and to compile any existing ordinance or ordinances and all new ordinances now heretofore adopted or published and to incorporate said ordinances into one ordinance book form; and

WHEREAS, the Legislative Body of the City of Jackson has authorized a general compilation, revision and codification of the ordinances of the City of a general and permanent nature and publication of such ordinances in book form.

NOW, THEREFORE, BE IT ORDAINED by the Legislative Body of the City of Jackson that;

Section 1. The general ordinances of the City of Jackson as herein revised, amended, restated, codified in book form are adopted as and shall constitute the “Code of Ordinances of the City of Jackson.”

Section 2. Said Code as adopted in Section 1 shall consist of the following titles, to wit:

- Title I General Provisions
- Title III Administration
- Title V Public Works
- Title VII Traffic Code
- Title IX General Regulations
- Title XI Business Regulations
- Title XIII General Offenses
- Title XV Land Usage
- Table of Special Ordinances
- Parallel References
- Index

Section 3. All prior ordinances pertaining to the subjects treated in said Code shall be deemed repealed from and after the effective date of said Code except as they are included and reordained in whole or in part in said Code; provided such repeal shall not affect any offense committed or penalty incurred or any right established prior to the effective date of said Code, nor shall such repeal affect the provisions of ordinances levying taxes, appropriating money, annexing or detaching territory establishing franchises or granting special rights to certain persons, authorizing public improvements, authorizing the issuance of bonds or borrowing of money, authorizing the purchase or sale of real or

Jackson - Adopting Ordinance

personal property, granting or accepting easements, plat or dedication of land to public use, naming or vacating or setting the boundaries of streets, alleys or other public places, nor to any other ordinance of a temporary or special nature or pertaining to subjects not contained therein.

Section 4. Said Code shall be deemed published as of the day of its adoption and approval by the City Legislative Body, and the Clerk of the City of Jackson is hereby authorized and ordered to file a copy of said Code in the Office of the City Clerk.

Section 5. Said Code shall be in full force and effect from the date of its publication and filing thereof in the Office of the Clerk, and said Code shall be presumptive evidence in all courts and places of the ordinance and all provisions, sections, penalties and regulations therein contained and of the date of passage, and that the same is properly signed, attested, recorded and approved and that any public hearings and notices thereof as required by law have been given.

PASSED AND ADOPTED by the City Legislative Body of the City of Jackson this 15th day of November, 1994.

ATTEST:

Marge Morrison /s/
City Clerk
City of Jackson, Kentucky

Frank Noble /s/
Mayor
City of Jackson, Kentucky

First Reading 10-18-94

Second Reading 11-15-94

Published 11-17-94

ORDINANCE NO. 101795

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE CITY OF JACKSON, KENTUCKY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 1995 S-1 Supplement to the Code of Ordinances of the City of Jackson, Kentucky, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Kentucky Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the State of Kentucky;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Jackson, State of Kentucky:

SECTION 1. That the S-1 Supplement to the Code of Ordinances of the City of Jackson, Kentucky as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage.

Passed this 17th day of October, 1995.

Frank Noble /s/
Frank Noble, Mayor
City of Jackson, Kentucky

Marge Morrison /s/
Marge Morrison, City Clerk
City of Jackson, Kentucky

First Reading	<u>9-19-95</u>
Second Reading	<u>10-17-95</u>
Published	<u>10-25-95</u>

ORDINANCE NO. 121796

**AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE
CODE OF ORDINANCES OF THE CITY OF JACKSON, KENTUCKY**

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 1996 supplement to the Code of Ordinances of the City of Jackson, Kentucky, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Kentucky Code; and

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the State of Kentucky;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Jackson, State of Kentucky:

SECTION 1. That the 1996 supplement to the Code of Ordinances of the City of Jackson, Kentucky, as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage, approval, and publication.

Passed this 17th day of December, 1996.

Passed on First Reading	11-19-96
Adopted on Second Reading	12-17-96
Signed by Mayor	12-18-96
Published in the Paper	12-23-96
Recorded by the Clerk	12-23-96

Frank Noble /s/
Mayor

ATTEST:

Marge Morrison /s/
City Clerk

ORDINANCE NO. 111897-A

**AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE
CODE OF ORDINANCES OF THE CITY OF JACKSON, KENTUCKY**

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 1997 supplement to the Code of Ordinances of the City of Jackson, Kentucky, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, said American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Kentucky Revised Statutes;

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the Commonwealth of Kentucky;

NOW, THEREFORE, BE IT ORDAINED by the City of Jackson, Kentucky:

SECTION 1. That the 1997 supplement to the Code of Ordinances of the City of Jackson, Kentucky, as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage, approval, and publication as required by law.

Passed this 18th day of November, 1997.

Passed on First Reading	10-21-97
Adopted on Second Reading	11-18-97
Signed by Mayor	11-18-97
Published in the Paper	11-27-97
Recorded by the Clerk	11-27-97

Frank Noble /s/
Mayor
City of Jackson, Kentucky

ATTEST:

Marge Morrison /s/
City Clerk
City of Jackson, Kentucky

ORDINANCE NO. 091598

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE
CODE OF ORDINANCES
OF THE CITY OF JACKSON, KENTUCKY

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 1998 supplement to the Code of Ordinances of the City of Jackson, Kentucky, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Kentucky Revised Statutes;

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the Commonwealth of Kentucky;

NOW, THEREFORE, BE IT ORDAINED by the City of Jackson, Kentucky:

SECTION 1. That the 1998 supplement to the Code of Ordinances of the City of Jackson, Kentucky, as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage, approval, and publication as required by law.

Passed this 15th day of September, 1998.

Passed on First Reading	8-18-98
Adopted on Second Reading	9-15-98
Signed by Mayor	9-15-98
Published in the Paper	9-24-98
Recorded by the Clerk	9-24-98

Frank Noble /s/
Mayor

ATTEST:

Marge Morrison /s/
City Clerk

ORDINANCE NO. 081299

**AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE
CODE OF ORDINANCES
OF THE CITY OF JACKSON, KENTUCKY**

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 1999 supplement to the Code of Ordinances of the City of Jackson, Kentucky, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Kentucky Revised Statutes;

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the Commonwealth of Kentucky;

NOW, THEREFORE, BE IT ORDAINED by the City of Jackson, Kentucky:

SECTION 1. That the 1999 supplement to the Code of Ordinances of the City of Jackson, Kentucky, as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage, approval, and publication as required by law.

Passed this 12th day of August, 1999.

Passed on First Reading	7-08-99
Adopted on Second Reading	8-12-99
Signed by Mayor	8-12-99
Published in the Paper	8-26-99
Recorded by the Clerk	8-26-99

Michael D. Miller /s/
Mayor

ATTEST:

Marge Morrison /s/
City Clerk

ORDINANCE NO. 062000

**AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE
CODE OF ORDINANCES
OF THE CITY OF JACKSON, KENTUCKY**

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2000 supplement to the Code of Ordinances of the City of Jackson, Kentucky, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Kentucky Revised Statutes;

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the Commonwealth of Kentucky;

NOW, THEREFORE, BE IT ORDAINED by the City of Jackson, Kentucky:

SECTION 1. That the 2000 supplement to the Code of Ordinances of the City of Jackson, Kentucky, as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage, approval, and publication as required by law.

Passed this 20th day of June, 2000.

Passed on First Reading	5-18-00
Adopted on Second Reading	6-20-00
Signed by Mayor	6-20-00
Published in the Paper	6-29-00
Recorded by the Clerk	6-29-00

Michael D. Miller /s/
Mayor

ATTEST:

Marge Morrison /s/
City Clerk

ORDINANCE NO. 092109

**AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE
CODE OF ORDINANCES
OF THE CITY OF JACKSON, KENTUCKY**

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the second supplement to the Code of Ordinances of the City of Jackson, which supplement contains all ordinances of a general nature enacted since the prior supplement to the Code of Ordinances of this municipality; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make references to sections of the Kentucky Revised Statutes;

WHEREAS, it is the intent of Council to accept these updated sections in accordance with the changes of the law of the Commonwealth of Kentucky;

NOW, THEREFORE, BE IT ORDAINED by the City of Jackson, Kentucky:

SECTION 1. That the second supplement to the Code of Ordinances of the City of Jackson, Kentucky, as submitted by American Legal Publishing Corporation of Cincinnati, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

SECTION 2. That this ordinance shall take effect and be in force from and after its date of passage, approval, and publication as required by law.

Passed this 21st day of September, 2009.

Passed on First Reading	8-24-2009
Adopted on Second Reading	9-21-2009
Signed by Mayor	Michael D. Miller
Published in the Paper	10-1-2009
Recorded by the Clerk	9-21-2009

Michael D. Miller /s/
Mayor Michael D. Miller

ATTEST:

Angela B. Combs /s/
City Clerk Angela B. Combs

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§ 10.01 SHORT TITLES

(A) All ordinances of a permanent and general nature of the city as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections shall be known and designated as the Jackson Code, for which designation “codified ordinances” or “code” may be substituted. Code, title, chapter, and section headings do not constitute any part of the law as contained in the code. (KRS 446.140)

(B) All references to codes, titles, chapters, and sections are to such components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the “traffic code.” Sections may be referred to and cited by the designation “§” followed by the number, such as “§ 10.01.” Headings and captions used in this code other than the title, chapter, and section numbers, are employed for reference purposes only and shall not be deemed a part of the text of any section.

§ 10.02 DEFINITIONS.

For the purpose of this code the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACTION. Includes all proceedings in any court of this state.
(KRS 446.010(1))

AND. May be read ***OR***, and ***OR*** may be read ***AND***, if the sense requires it.

ANIMAL. Includes every warm-blooded living creature except a human being. (KRS 446.010(2))

CATTLE. Includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex.

CITY, MUNICIPAL CORPORATION, or MUNICIPALITY. When used in this code shall denote the City of Jackson irrespective of its population or legal classification.

COMPANY. May extend and be applied to any corporation, company, person, partnership, joint stock company, or association.
(KRS 446.010(9))

CORPORATION. May extend and be applied to any corporation, company, partnership, joint stock company, or association.
(KRS 446.010(10))

COUNCIL. The city legislative body. (KRS 83A.010(5))

COUNTY. Breathitt County, Kentucky.

CRUELTY. As applied to animals, includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted. (KRS 446.010(12))

DIRECTORS. When applied to corporations, includes managers or trustees. (KRS 446.010(13))

DOMESTIC. When applied to corporations, partnerships, limited partnerships, or limited liability companies, means all those incorporated or formed by authority of this state. (KRS 446.010(14))

DOMESTIC ANIMAL. Any animal converted to domestic habitat. (KRS 446.010(15))

EXECUTIVE AUTHORITY. The Mayor. (KRS 83A.010(6))

FEDERAL. Refers to the United States. (KRS 446.010(17))

FOREIGN. When applied to a corporation, partnership, limited partnership, business trust, statutory trust, or limited liability company, includes all those incorporated or formed by authority of any other state. (KRS 446.010(18))

KEEPER or **PROPRIETOR.** Includes all persons, whether acting by themselves or as a servant, agent, or employee.

KRS. Kentucky Revised Statutes.

LAND or **REAL ESTATE.** Includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest. (KRS 446.010(23))

LEGISLATIVE BODY. The City Council. (KRS 91A.010(8))

LEGISLATIVE BODY MEMBER. A City Councilman. (KRS 83A.010(8))

MAY. The act referred to is permissive. (KRS 446.010(26))

MONTH. Calendar month. (KRS 446.010(27))

MUNICIPALITY. The City of Jackson, Kentucky.

OATH. Includes **AFFIRMATION** in all cases in which an affirmation may be substituted for an oath. (KRS 446.010(28))

PARTNERSHIP. Includes both general and limited partnerships. (KRS 446.010(30))

PEACE OFFICER. Includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests. (KRS 446.010(31))

PERSON. May extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, registered limited liability partnerships, joint stock companies, and limited liability companies. (KRS 446.010(33))

PERSONAL PROPERTY. Includes all property except real.

PREMISES. As applied to property, includes land and buildings.

PROPERTY. Includes real, personal, mixed estates and interests.

PUBLIC AUTHORITY. Includes boards of education; the municipal, county, state, or federal government, its officers or an agency thereof; or any duly authorized public official.

PUBLIC PLACE. Includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation, or amusement.

REAL PROPERTY. Includes lands, tenements, and hereditaments.

REGULAR ELECTION. The election in even numbered years at which members of Congress are elected and the election in odd numbered years at which state officers are elected.
(KRS 446.010(37))

SHALL. The act referred to is mandatory. (KRS 446.010(39))

SWORN. Includes **AFFIRMED** in all cases in which an affirmation may be substituted for an oath.
(KRS 446.010(43))

SIDEWALK. That portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.

STATE. The State of Kentucky.

STREET. Includes alleys, avenues, boulevards, lanes, roads, highways, viaducts, and all other public thoroughfares within the city.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

TENANT or **OCCUPANT.** As applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.

VACANCY IN OFFICE. Such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county, city, or district, or otherwise. (KRS 446.010(46))

VIOLATE. Includes failure to comply with. (KRS 446.010(47))

YEAR. Calendar year. (KRS 446.010(49))

§ 10.03 RULES OF CONSTRUCTION.

(A) Singular includes plural. A word importing the singular number only may extend and be applied to several persons or things, as well as to one person or thing, and a word importing the plural number only may extend and be applied to one person or thing as well as to several persons or things. (KRS 446.020(1))

(B) Masculine includes feminine. A word importing the masculine gender only may extend and be applied to females as well as males. (KRS 446.020(2))

(C) Liberal construction. All sections of this code shall be liberally construed with a view to promote their objects and carry out the intent of Council. (KRS 446.080 (1))

(D) Retroactivity. No ordinance shall be construed to be retroactive, unless expressly so declared. (KRS 446.080 (3))

(E) Technical terms. All words and phrases shall be construed according to the common and approved usage of language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law, shall be construed according to such meaning. (KRS 446.080 (4))

§ 10.04 COMPUTATION OF TIME.

(A) In computing any period of time prescribed or allowed by order of court, or by any applicable ordinance or regulation, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday, a legal holiday, or a day on which the public office in which a document is required to be filed is actually and legally closed, in which event the period runs until the end of the next day which is not one of the days just mentioned. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

(B) When an ordinance, regulation, or order of court requires an act to be done either a certain time before an event or a certain time before the day on which an event occurs, the day of the event shall be excluded in computing the time. If the day thereby computed on which or by which the act is required to be done falls on a Saturday, Sunday, legal holiday, or a day on which the public office in which the act is required to be completed is actually and legally closed, the act may be done on the next day which is none of the days just mentioned.

(C) If any proceeding is directed by law to take place, or any act is directed to be done, on a particular day of a month and that day is Sunday, the proceeding shall take place, or the act shall be done, on the next day that is not a legal holiday. (KRS 446.030)

(D) In all cases where the law requires any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean the time only as may be necessary for the prompt performance of such duty or compliance with such notice.

§ 10.05 MAJORITY MAY ACT FOR ALL; AUTHORIZED AGENT.

(A) Words giving authority to three or more public officers or other persons shall be construed as giving such authority to a majority of such officers or other persons. (KRS 446.050)

(B) When the law requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include such acts when done by an authorized agent.

§ 10.06 WRITINGS AND SIGNATURES.

(A) When this code requires any writing to be signed by a party thereto, it shall not be deemed to be signed unless the signature is subscribed at the end or close of the writing.

(B) Every writing contemplated by this code shall be in the English language.
(KRS 446.060)

§ 10.07 SEVERABILITY.

It shall be considered that it is the intent of Council in enacting any ordinance, that if any part of the ordinance be held unconstitutional the remaining parts shall remain in force, unless the ordinance provides otherwise, or unless the remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional part that it is apparent that Council would not have enacted the remaining parts without the unconstitutional part, or unless the remaining parts, standing alone, are incomplete and incapable of being executed in accordance with the intent of Council.

(KRS 446.090)

§ 10.08 REVIVOR.

(A) A repealed ordinance without a delayed effective date is revived when the ordinance that repealed it is repealed by another ordinance enacted at the same meeting of Council.

(B) A repealed ordinance with a delayed effective date is revived by the enactment of a repealer of the ordinance that repealed it at the same or any subsequent meeting of Council as long as it takes effect prior to the effective date of the original repealer.

(C) An amended ordinance without a delayed effective date remains unchanged with respect to an amendment which is repealed at the same meeting of Council which enacted the amendment.

(D) An amended ordinance with a delayed effective date remains unchanged with respect to that amendment if the ordinance making the amendment is repealed at the same or at a subsequent meeting of Council as long as the repealing ordinance takes effect prior to the effective date of the original amendment.

(E) No other action of Council repealing a repealer or an amendment shall have the effect of reviving the original language of the repealer or amendment as the case may be.
(KRS 446.100)

§ 10.09 RIGHTS AND LIABILITIES ACCRUING BEFORE REPEAL OF ORDINANCE.

No new ordinance shall be construed to repeal a former ordinance as to any offense committed against a former ordinance, nor as to any act done, or penalty, forfeiture, or punishment incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or done, or any penalty, forfeiture, or punishment so incurred, or any right accrued or claim arising before the new ordinance takes effect, except that the proceedings thereafter had shall conform, so far as practicable, to the laws in force at the time of such proceedings. If any penalty, forfeiture, or punishment is mitigated by any provision of the new ordinance, such provision may, by the consent of the party affected, be applied to any judgment pronounced after the new ordinance takes effect.

(KRS 446.110)

§ 10.10 CONSTRUCTION OF SECTION REFERENCES.

(A) Wherever in a penalty section reference is made to a violation of a section or an inclusive group of sections, such reference shall be construed to mean a violation of any provision of the section or sections included in the reference.

(B) References in the code to action taken or authorized under designated sections of the code include, in every case, action taken or authorized under the applicable legislative provision which is superseded by this code.

(C) Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered, unless the subject matter be changed or materially altered by the amendment or revision.

§ 10.11 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code of ordinances.

§ 10.12 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not enumerated and embraced in this code of ordinances, shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.13 ORDINANCES SAVED.

Whenever an ordinance by its nature either authorizes or enables the Council, or a certain city officer or employee, to make additional ordinances or regulations for the purpose of carrying out the intent of the ordinance, all ordinances and regulations of a similar nature serving such purpose effected prior to the codification and not inconsistent thereto, shall remain in effect and are saved.

§ 10.14 AMENDMENTS TO CODE; AMENDATORY LANGUAGE.

(A) Any chapter, section, or division amended or added to this code by ordinances passed subsequent to this code may be numbered in accordance with the numbering system of this code and printed for inclusion herein. Any chapter, section, or division repealed by subsequent ordinances may be excluded from this code by omission from reprinted pages. Subsequent ordinances as printed or omitted shall be prima facie evidence of such subsequent ordinances until Council shall adopt a new code of ordinances.

(B) The method of amendment set forth in § 32.37 should be used by the city to amend, add, or repeal a chapter, section, or division of this code of ordinances.

§ 10.15 CONFLICTING PROVISIONS.

If the provisions of different codes, chapters, or sections of the codified ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be so construed as to be consistent with the meaning or legal effect of the questions of the subject matter taken as a whole.

§ 10.16 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of the city exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

§ 10.17 ERRORS AND OMISSIONS.

If a manifest error be discovered consisting of the misspelling of any word or words, the omission of any word or words necessary to express the intention of the provisions affected, the use of a word or words to which no meaning can be attached, or the use of a word or words when another word or words was clearly intended to express the intention, the spelling shall be corrected, and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provision shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

§ 10.18 HISTORICAL AND STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(B) If a KRS cite is included in the history, this indicates that the text of the section reads word-for-word the same as the statute. Example: (KRS 83A.090) (Ord. 10, passed 1-17-80; Am. Ord. 20, passed 1-1-85). If a KRS cite is set forth as a "statutory reference" following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

§ 31.10 MAYOR.

The executive authority of the city shall be vested in and exercised by the Mayor.
(Ord. 10, passed 1-1-80)

Statutory reference:

For powers and duties of the Mayor, see KRS 83A.130

§ 10.99 GENERAL PENALTY.

Where an act or omission is prohibited or declared unlawful in this code of ordinances, and no penalty is otherwise provided, the offense shall be deemed a violation and the offender shall be fined not more than \$250 for each offense.

TITLE III: ADMINISTRATION

Chapter

- 30. MAYOR-COUNCIL PLAN**
- 31. CITY OFFICIALS**
- 32. CITY COUNCIL**
- 33. FINANCE AND REVENUE**
- 34. PUBLIC RECORDS**
- 35. TAXATION**
- 36. DISCRIMINATION BASED ON HANDICAPPED STATUS**
- 37. PERSONNEL POLICIES AND PROCEDURES**
- 38. POLICE DEPARTMENT**
- 39. CODE OF ETHICS**

CHAPTER 30: MAYOR-COUNCIL PLAN

Section

- 30.01 Form of government
- 30.02 Governing officers

§ 30.01 FORM OF GOVERNMENT.

The form of government provided for this city shall be known as the “Mayor-Council Plan.”
(KRS 83A.130 (1))

§ 30.02 GOVERNING OFFICERS.

(A) The city shall be governed by an elected executive who shall be called Mayor and by an elected legislative body which shall be called the City Council, and by such other officers and employees as are provided for by statute or city ordinance.
(KRS 83A.130 (2))

(B) The City Council shall be composed of not less than six nor more than 12 members as prescribed by ordinance.
(KRS 83A.030 (1))

CHAPTER 31: CITY OFFICIALS

Section

General Provisions

- 31.01 Oath; bond
- 31.02 Compensation
- 31.03 Removal from office
- 31.04 Conflict of interest policy

Elected Officials

- 31.20 Election procedure
- 31.21 Mayor
- 31.22 Councilmembers

Nonelected City Officials

- 31.35 Establishment of nonelected city offices
- 31.36 City Clerk/Tax Administrator
- 31.37 Assistant City Clerk/Secretary
- 31.38 Reserved
- 31.39 Superintendent of Utilities/Public Works

Cross-reference:

Position descriptions; city employees, see Ch. 37

GENERAL PROVISIONS

§ 31.01 OATH; BOND.

(A) *Oath.* Each officer of the city shall, before entering upon the discharge of duties of his office, take the following oath: “I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of this Commonwealth, and the Constitution of the United States, and be faithful and true to the Commonwealth of Kentucky, so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability, the office of _____, according to law; and I do further solemnly swear (or affirm) that, since the adoption of the present Constitution, I being a citizen of this United States, have not fought a duel with deadly weapons within this State, nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as a second in carrying a

challenge, nor aided or assisted any person thus offending, so help me God”, as established by section 228 of the Kentucky Constitution.

(B) *Certification.* Certification of the person administering the oath of office to an elected official shall certify in writing that the oath was administered and the date of its administration. Said certification shall be filed in accordance with KRS 62.020.

(C) *Bond.*

(1) All officers, officials, and employees of cities, counties, urban-county governments, charter county governments, a regional wastewater commission, and special districts who handle public funds in the execution of their duties shall give a good and sufficient bond to the local governing body for the faithful and honest performance of his or her duties and as security for all money coming into that person's hands or under that persons' control. The bond amount shall be based upon the maximum amount of public funds the officer, official, or employee handles at any given time during a fiscal year cycle. The local governing body shall pay the cost of the bond.

(2) Elected officials who post bond as required by statute, and employees of their offices covered by a blanket or umbrella bond, shall be deemed to have complied with division (C) (1) of this section.

(KRS 65.067)

§ 31.02 COMPENSATION.

(A) City Council shall establish the compensation of every elected city officer not later than the first Monday in May in the year in which the officer is elected. An elected officer's compensation shall not be changed after his or her election or during his or her term of office.

(1) In order to equate the compensation of Mayors and Councilmembers with the purchasing power of the dollar, the Department for Local Government computes by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with section 246 of the Constitution of Kentucky, which provides that the Mayor in cities of the first class shall be paid at a rate no greater than \$12,000 per annum and Mayors in cities other than the first class and Councilmembers shall be paid at a rate no greater than \$7,200 per annum.

(2) The City Council shall set the compensation of these officers in accordance with KRS 83A.070 at a rate no greater than that stipulated by the Department for Local Government.

(B) The City Council shall fix the compensation of each appointed city officer by ordinance and may change it by ordinance.

(C) The City Council shall establish the compensation of city employees in accordance with the personnel and pay classification plan ordinance of the city.

(D) All fees and commissions authorized by law shall be paid into the city treasury for the benefit of the city and shall not be retained by any officer or employee.

Statutory reference:

Compensation, see KRS 83A.070 and 83A.075

§ 31.03 REMOVAL FROM OFFICE.

(A) *Elected officers.* Any elected officer, in case of misconduct, inability, or willful neglect in the performance of the duties of his office, may be removed from office by a unanimous vote of the members of the City Council exclusive of any member to be removed, who shall not vote in the deliberation of his removal. No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, has the right to appeal to the circuit court of the county and the appeal shall be on the record. No officer so removed is eligible to fill the office vacated before the expiration of the term to which originally elected.

(B) *Nonelected officers.* Nonelected city officers may be removed by the Mayor at will, unless otherwise provided by state law or ordinance.

Statutory reference:

Removal of elected officers, see KRS 83A.040(9)

Removal of nonelected officers, see KRS 83A.080(2)

§ 31.04 CONFLICT OF INTEREST POLICY.

(A) *Purpose.* This conflict of interest policy is designed to foster public confidence in the integrity of (City of Jackson) (the "organization") and to protect the organization's interest when it is contemplating entering a transaction (defined below) that might benefit the private interest of a director, a corporate officer, the top management or top financial official, a key employee (defined below).

(B) *Definitions.* As used in this section, unless the context otherwise requires, the following definitions shall apply.

INSIDERS. The following are considered insiders for the purpose of this policy:

(a) Each member of the Board of Directors or other governing body.

(b) The president, chief executive officer, chief operating officer, treasurer and chief financial officer, executive director, or any person with the responsibilities of any of these positions (whether or not the person is an officer of the organization under the organizations bylaws).

(c) Any key employee, meaning an employee whose total annual compensation (including benefits) from the organization and its affiliates is more than \$150,000 and who (a) has responsibilities of influence over the organization similar to that of officers, directors, or trustees; or (b) manages a program that represents 10% or more of the activities, assets, income, or expenses of the organization; or (c) has or shares authority to control 10% or more of the organizations capital expenditures, operating budget, or compensation for employees.

INTEREST. Any material financial interest, whether through commitment, investment, relationship, obligation, involvement or otherwise, direct or indirect, that may influence a person's judgment, including receipt of compensation from the organization, a sale, loan, or exchange transaction with the organization. A conflict of interest is present when, in the judgment of the body or individual determining whether a conflict exists, an insider or person related to the insider by family or business relationship ("interested person") has a material financial interest in the transaction such that it reduces the likelihood that an insider's influence can be exercised impartially in the best interests of the organization.

TRANSACTION. Any transaction, agreement, or arrangement between an interested person and the organization, or between the organization and any third party where an interested person has a material financial interest in the transaction or any party to it. (Note to organization: If the organization a separate compensation policy that addresses the receipt of compensation by an insider in his or her capacity as an insider (e.g., compensation paid to the president for her services to the organization as president), please include the following sentence: "Transaction does not include compensation arrangements between the organization and a director, officer, or other insider that are wholly addressed under the organizations compensation policy)."

(C) *Procedures.*

(1) *Duty to disclose.* Each interested person shall disclose to the Board all material facts regarding his, her, or its interest (including relevant affiliations) in the transaction. The interested person shall make that disclosure promptly upon learning of the proposed transaction.

(2) *Determining whether a conflict of interest exists.* With regard to an interested person, the Board shall determine if a conflict of interest exists.

(3) *Procedures for addressing a conflict of interest.* The Board shall follow the procedures set forth in division (D) in order to decide what measures are needed to protect the organization's interests in light of the nature and seriousness of the conflict, to decide whether to enter into the transaction and if so, to ensure that the terms of the transaction are appropriate. In the case of an insider who is a director, the director shall not vote on any transaction in which the director has an interest, and the remaining Board members shall decide the matter.

(D) *Review by the Board.*

(1) The Board may ask questions of and receive presentation(s) from the insider(s) and any other interested person(s), and may deliberate and vote on the transaction in their presence. The Board shall ascertain that all material facts regarding the transaction and the interested person's conflict of interest have been disclosed to the Board and shall compile appropriate data to ascertain whether the proposed transaction is just and reasonable to the organization.

(2) After exercising due diligence, which may include investigating alternatives that present no conflict, the Board shall determine whether the transaction is in the organization's best interest, for its own benefit, and whether it is just and reasonable to the organization; the transaction can be approved

by the Board by majority vote of those present at a meeting for which quorum requirements have been met, without counting the vote of any interested directors. Interested or common directors may be counted in determining the presence of a quorum at such meeting.

(E) *Records of proceedings.* The minutes of any meeting of the Board pursuant to this policy shall contain the name of each interested person who disclosed or was otherwise determined to have an interest in a transaction; the nature of the interest and whether it was determined to constitute a conflict of interest; any alternative transactions considered; the members of the Board who were present during the debate on the transaction, those who voted on it, and to what extent interested persons were excluded from the deliberations; any comparability data or other information obtained and relied upon by the Board and how the information was obtained; and the result of the vote, including if applicable, the terms of the transaction that was approved and the date it was approved.

(F) *Annual disclosure and compliance statements.* Each director, each corporate officer, the top management official, the top financial official, and each key employee of the organization, shall annually sign a statement on the form attached, that:

(1) Affirms that the person has received a copy of this conflict of interest policy, has read and understood the policy, and has agreed to comply with the policy; and

(2) Discloses the person's financial interests and family relationships that could give rise to conflicts of interest.

(G) *Violations.* If the Board has reasonable cause to believe that an insider of the organization has failed to disclose actual or possible conflicts of interest, including those arising from a transaction with a related interested person, it shall inform such insider of the basis for this belief and afford the insider an opportunity to explain the alleged failure to disclose. If, after hearing the insider's response and making further investigation as warranted by the circumstances, the Board determines that the insider has failed to disclose an actual or possible conflict of interest, the Board shall take appropriate disciplinary and corrective action.

(H) *Annual reviews.* To ensure that the organization operates in a manner consistent with its status as an organization exempt from federal income tax, the Board shall authorize and oversee an annual review of the administration of this conflict of interest policy. The review may be written or oral. The review shall consider the level of compliance with the policy, the continuing suitability of the policy, and whether the policy should be modified and improved.

(Ord. 031716, passed 3-21-16)

Cross-reference:

Conflicts of interest in general, see §§ 39.15 et seq.

ELECTED OFFICIALS**§ 31.20 ELECTION PROCEDURE.**

(A) Election of city officers shall be under nonpartisan city election laws as provided in KRS Chapter 83A. Any ordinance prescribing that election of city officers be under nonpartisan city election laws shall become effective not later than 23 days prior to the date prescribed by the election law generally for filing notification and declaration forms with the County Clerk in a year in which a regular election is to be held in which any city office is to be filled. Immediately subsequent to publication of the ordinance, a copy of the ordinance shall be filed with the County Clerk of the county in which the city is located. (Ord. 091487, passed 9-14-87)

(B) The city shall forego conducting a nonpartisan primary election for the nomination of candidates to city office. Regardless of the number of candidates running for each office, all candidates shall be required to file their nomination papers with the Breathitt County Clerk's office no later than the first Tuesday in August preceding the day fixed by KRS Chapter 18 for holding a regular election. (Ord. 112090-A, passed 11-20-90)

(C) The city may change the manner of election of city officers within the provisions of division (A) of this section by ordinance, except that no change shall be made earlier than five years from the last change.

(D) The city shall pay the costs of city elections only if city elections are held at a time other than prescribed by law for elections generally.

(E) Each appointed and elected city office existing on July 15, 1980, shall continue until abolished by ordinance, except that the offices of Mayor and City Councilmembers may not be abolished.

(F) No abolition of any elected office shall take effect until expiration of the term of the current holder of the office.

(G) No ordinance abolishing any elected office shall be enacted later than 240 days preceding the regular election for that office, except in the event of a vacancy in the office.

(H) The city may not create any elected office. Existing elected offices may be continued under provision of divisions (E), (F), and (G) above, but no existing elected office may be changed.

Statutory reference:

Election of city officers, see KRS 83A.050

Creation, abolishment of city offices, see KRS 83A.080(3), (4)

§ 31.21 MAYOR.

(A) *Election; term of office.* The Mayor of this city shall be elected by the voters of the city at a regular election. A candidate for Mayor shall be a resident of the city for not less than one year prior to his or her election. His or her term of office begins on the first day of January following his or her election and shall be for four years and until his or her successor qualifies. If a person is elected or appointed as Mayor in response to a vacancy and serves less than four calendar years, then that period of service shall not be considered for purposes of re-election a term of office.

(B) *Qualifications.* The Mayor shall be at least 21 years of age, shall be a qualified voter in the city, and shall reside in the city throughout his or her term of office.

(C) *Vacancy.* If a vacancy occurs in the office of Mayor, Council shall fill the vacancy within 30 days. If for any reason, any vacancy in the office of Mayor is not filled within 30 days after it occurs, the Governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.

(KRS 83A.040 (1), (2), (6))

(1) When voting to fill a vacancy in the office of Mayor, a member of the City Council shall not vote for himself or herself. (KRS 83A.040(2)(c))

(2) When voting to fill a vacancy created by the resignation of the Mayor, the resigning Mayor shall not vote on his or her successor. (KRS 83A.040(3))

(3) No vacancy by reason of a voluntary resignation in the office of Mayor shall occur unless a written resignation which specifies the resignation date is tendered to the City Council. The resignation shall be effective at the next regular or special meeting of the city legislative body occurring after the date specified in the written letter of resignation. (KRS 83A.040(7))

(4) If a vacancy occurs in the office of Mayor which is required by law to be filled temporarily by appointment, the City Council shall immediately notify in writing both the County Clerk and the Secretary of State of the vacancy. (KRS 83A.040(8))

(5) The City Council shall elect from among its members an individual to preside over meetings of the City Council during any vacancy in the office of the Mayor in accordance with the provisions of KRS 83A.130. (KRS 83A.040(2)(d))

(D) *Powers and duties.*

(1) The executive authority of the city is hereby vested in and shall be exercised by the Mayor. The Mayor shall enforce the Mayor-Council Plan, city ordinances and orders, and all applicable statutes. He or she shall supervise all departments of city government and the conduct of all city

officers and employees under his jurisdiction and require each department to make reports to him as required by ordinance or as he deems desirable.

(2) The Mayor shall maintain liaison with related units of local government respecting interlocal contracting and joint activities.

(3) The Mayor shall report to the Council and to the public on the condition and needs of city government as he finds appropriate or as required by ordinance, but not less than annually. He shall make any recommendations for actions by the Council he finds in the public interest.
(KRS 83A.130(3))

(4) Subject to disapproval of the Council, the Mayor shall promulgate procedures to insure orderly administration of the functions of city government and compliance with statutes or ordinances. Upon promulgation or upon revision or rescission of the procedures, copies shall be filed with the person responsible for maintaining city records. (KRS 83A.130(4))

(5) Any delegation of the Mayor's power, duties, or responsibilities to subordinate officers and employees and any expression of his official authority to fulfill executive functions shall be made by executive order. Executive orders shall be sequentially numbered by years and kept in a permanent file.
(KRS 83A.130(7))

(6) All bonds, notes, contracts, and written obligations of the city shall be made and executed by the Mayor or his agent designated by executive order. (KRS 83A.130(8))

(7) The Mayor shall be the appointing authority with power to appoint and remove all city employees, including police officers, except as tenure and terms of employment are protected by statute, ordinance, or contract and except for employees of the Council. (KRS 83A.130(9))

(8) The Mayor shall provide for the orderly continuation of the functions of city government at any time he is unable to attend to the duties of his office by delegating responsibility for any function to be performed, in accordance with division (D)(5) above. However, the Mayor may not delegate the responsibility of presiding at meetings of the Council, and the authority to approve ordinances or promulgate administrative procedures may only be delegated to an elected officer. With approval of the Council, the Mayor may rescind any action taken in his absence under this section within 30 days of such action. If for any reason the disability of the Mayor to attend to his duties persists for 60 consecutive days, the office of Mayor may be declared vacant by a majority vote of the Council and the provisions of § 31.21(C) shall apply. (KRS 83A.130(10))

§ 31.22 COUNCILMEMBERS.

For provisions concerning City Council, see Chapter 32.

NONELECTED CITY OFFICIALS**§ 31.35 ESTABLISHMENT OF NONELECTED CITY OFFICES.**

(A) All nonelected city offices shall be created by ordinance which shall specify:

- (1) Title of office;
- (2) Powers and duties of office;
- (3) Oath of office;
- (4) Bond, if required; and

(5) Compensation, which may be specifically established or set by reference to another ordinance in which the compensation is specifically established.

(B) With the exception of the Police Chief and all city police officers, all nonelected city officers shall be appointed by the Mayor with approval of City Council. The Police Chief and all city police officers shall be appointed by the Mayor at will and such appointments need not be approved by City Council.

(C) All nonelected officers may be removed by the Mayor at will unless otherwise provided by statute or ordinance.

(D) The following are nonelected city offices:

- (1) City Clerk/Tax Administrator;
- (2) Assistant City Clerk/Secretary;
- (3) City Attorney;
- (4) Superintendent of Utilities/Public Works.

Statutory reference:

Nonelected city offices, see KRS 83A.080(1), (2)

§ 31.36 CITY CLERK/TAX ADMINISTRATOR.

(A) The city hereby establishes the office of the City Clerk/Tax Administrator.

(B) The duties and responsibilities of the Clerk/Tax Administrator shall include, but are not limited to the following:

(1) Maintenance and safekeeping of the permanent records of the city;

(2) Performance of the duties required of the “official custodian” or “custodian” pursuant to KRS 61.870 through 61.882;

(3) Possession of the seal of the city if used;

(4) No later than January 31 of each year, mail or electronically submit to the Department for Local Government a list containing current city information including but not limited to the following:

(a) The correct name, telephone number and electronic mail address of the Mayor, legislative body members, and the correct name, telephone number, and electronic mail address for the city's appointed officials or employees who are serving in the following roles or substantially similar roles as of January 1 of each year:

1. City Clerk;
2. City Treasurer or Chief Financial Officer;
3. City Manager or Administrator;
4. City Attorney;
5. Human Resources Director;
6. Police Chief;
7. Fire Chief;
8. Public Works Director;
9. Risk Manager;
10. Information Technology Manager;
11. Public Relations or Communications Officer; and
12. Planning and Zoning Administrator.

(b) The correct name of the city, mailing address for city hall, and telephone number of the city hall; and

(c) The name and telephone number of either an elected or appointed official to serve as a contact person that may be reached during normal business hours of 8:00 a.m. to 4:30 p.m.;

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(5) Maintenance of all necessary and appropriate account and ledgers by currently acceptable accounting methods, which shall correctly reflect the finances of the city.

(6) Attendance at regular City Counsel meetings.

(7) Performance of all other duties and responsibilities required of the City Clerk or the Tax Administrator by statute, ordinance or the Classification Plan.
(KRS 83A.085)

(C) Compensation shall be in the amount as established by the City Council from time to time as set forth in § 31.02.

(D) No person shall be appointed or act as the City Clerk/Tax Administrator unless such person has taken the oath required by section 228 of the Constitution of the Commonwealth of Kentucky and has provided bond, if required, with corporate surety authorized to transact business in Kentucky and conditioned upon the performance of the duties specified herein.

§ 31.37 ASSISTANT CITY CLERK/SECRETARY.

(A) There is hereby established the office of Assistant City Clerk/Secretary of the city.

(B) The powers and duties of this office shall be as set forth by the Classification Plan.

(C) The oath of office to be executed by the Assistant City Clerk/Secretary shall be that set forth in section 228 of the Constitution of the Commonwealth of Kentucky. Before entering upon the duties of the office, the Assistant City Clerk/Secretary shall provide bond, if required, with a corporate surety authorized and qualified to transact business in Kentucky and conditioned upon the performance of the duties specified in division (B) above.

(D) Compensation for this office shall be in an amount as established by ordinance of City Council.

§ 31.38 RESERVED.

§ 31.39 SUPERINTENDENT OF UTILITIES/PUBLIC WORKS.

(A) There is established the office of Superintendent of Utilities/Public Works.

(B) The Superintendent of Utilities/Public Works shall be appointed by the Mayor with the approval of City Council and shall hold office at the pleasure of the Mayor. He or she shall perform and discharge the duties set forth by the Classification Plan.

(C) No person shall be appointed or act as the Superintendent of Utilities/Public Works unless such person has taken the oath required by section 228 of the Constitution of the Commonwealth of Kentucky, and has provided a bond, if required, with corporate surety authorized to transact business in the Commonwealth of Kentucky and conditioned upon the performance of the duties specified in Chapter 37.

(D) The compensation of the Superintendent of Utilities/Public Works shall be in an amount to be established by City Council by ordinance.

CHAPTER 32: CITY COUNCIL

Section

General Provisions

- 32.01 Members; election, qualifications, compensation
- 32.02 Vacancies
- 32.03 Powers and duties

Rules of Procedure

- 32.20 Mayor as Presiding Officer
- 32.21 Meetings
- 32.22 Quorum

Ordinances

- 32.35 One subject; title
- 32.36 Introduction; enacting clause
- 32.37 Form of amendment
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- 32.39 Approval, disapproval by Mayor
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- 32.41 Official city records
- 32.42 Indexing and maintenance requirements
- 32.43 Publication requirements
- 32.44 Additional requirements for adoption may be established by city
- 32.45 Periodic review required
- 32.46 Municipal orders
- 32.47 Proved by Clerk; received in evidence
- 32.48 Legislative immunity

GENERAL PROVISIONS

§ 32.01 MEMBERS; ELECTION, QUALIFICATIONS, COMPENSATION.

(A) Election; term of office. Each Councilmember shall be elected at-large by the voters of the city at a regular election. A candidate for City Council shall be a resident of the city for not less than

one year prior to his or her election. Terms of office begin on the first day of January following the election and shall be for two years.

(B) Qualifications. A member shall be at least 18 years of age, shall be a qualified voter in the city, and shall reside in the city throughout his or her term of office.
(KRS 83A.040(4))

(C) Compensation. For provisions concerning compensation, see § 31.02.

§ 32.02 VACANCIES.

(A) Vacancies. If one or more vacancies on Council occur in a way that one or more members remain seated, the remaining members shall within 30 days fill the vacancies one at a time, giving each new appointee reasonable notice of his or her selection as will enable him or her to meet and act with the remaining members in making further appointments until all vacancies are filled. If vacancies occur in a way that all seats become vacant, the Governor shall appoint qualified persons to fill the vacancies sufficient to constitute a quorum. Remaining vacancies are filled as provided in this section.
(KRS 83A.040(5))

(1) No vacancy by reason of a voluntary resignation of a member of the City Council shall occur unless a written resignation which specifies a resignation date is tendered to the City Council. The resignation shall be effective at the next regular or special meeting of the city legislative body occurring after the date specified in the written letter of resignation.
(KRS 83A.040(7))

(2) If a vacancy occurs on the City Council which is required by law to be filled temporarily by appointment, the City Council shall immediately notify in writing both the County Clerk and the Secretary of State of the vacancy. (KRS 83A.040(8))

(B) Failure to fill vacancies. If for any reason, any vacancy on Council is not filled within 30 days after it occurs, the Governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.
(KRS 83A.040(6))

Statutory reference:

Filling of vacancies for nonpartisan city office, see KRS 83A.175

§ 32.03 POWERS AND DUTIES.

(A) The legislative authority of the city is hereby vested in and shall be exercised by the elected Council of the city. The Council may not perform any executive functions except those functions assigned to it by statute. (KRS 83A.130(11))

(B) The Council shall establish all appointive offices and the duties and responsibilities of those offices and codes, rules, and regulations for the public health, safety, and welfare. (KRS 83A.130(12))

(C) The Council shall provide, by ordinance, for sufficient revenue to operate city government and shall appropriate the funds of the city in a budget which provides for the orderly management of city resources. (KRS 83A.130 (12))

(D) The Council may investigate all activities of city government. The Council may require any city officer or employee to prepare and submit to it sworn statements regarding the performance of his official duties. Any statement required by the Council to be submitted or any investigation undertaken by the Council, if any office, department, or agency under the jurisdiction of the Mayor is involved, shall not be submitted or undertaken unless and until written notice of the Council's action is given to the Mayor. The Mayor may review any statement before submission to the Council and to appear personally or through his designee on behalf of any department, office, or agency in the course of any investigation.
(KRS 83A.130 (13))

RULES OF PROCEDURE

§ 32.20 MAYOR AS PRESIDING OFFICER.

(A) The Mayor shall preside at meetings of the Council. The Council has the authority to establish, by ordinance, the manner in which one of its number may be selected to preside at meetings of the Council in the absence of the Mayor.

(B) The Mayor may participate in Council proceedings, but shall not have a vote, except that he may cast the deciding vote in case of a tie.
(KRS 83A.130 (5))

Cross-reference:

Council's responsibility to select one of its own members to preside when there is vacancy in the office of Mayor, see § 31.21

§ 32.21 MEETINGS.

(A) Regular meetings of the Council shall be held on the third Tuesday of every month, at 7:00 p.m., in the Jackson City Hall Council Chambers, located at 333 Broadway.

(B) Special meetings of the Council may be called by the Mayor or upon written request of a majority of the Council. In the call, the Mayor or Council shall designate the purpose, time, and place of the special meeting with sufficient notice for the attendance of Council members and for compliance with KRS Chapter 61.

(C) At a special meeting no business may be considered other than that set forth in the designation of purpose.

(D) The minutes of every meeting shall be signed by the person responsible for maintaining city records as provided under § 31.36 and by the officer presiding at the meeting.
(KRS 83A.130 (11))

§ 32.22 QUORUM.

Unless otherwise provided by statute, a majority of the Council constitutes a quorum and a vote of a majority of a quorum is sufficient to take action.
(KRS 83A.060 (6))

ORDINANCES

§ 32.35 ONE SUBJECT; TITLE.

Each ordinance shall embrace only one subject and shall have a title that clearly states the subject.
(KRS 83A.060 (1))

§ 32.36 INTRODUCTION; ENACTING CLAUSE.

Each ordinance shall be introduced in writing and shall have an enacting clause styled “Be it ordained by the City of Jackson.”
(KRS 83A.060 (2))

§ 32.37 FORM OF AMENDMENT.

No ordinance shall be amended by reference to its title only, and ordinances to amend shall set out in full the amended ordinance or section indicating any text being added by a single solid line drawn underneath it. Text that is intended to be removed shall be marked at the beginning with an opening bracket and at the end with a closing bracket. The text between the brackets shall be stricken through with a single solid line.
(KRS 83A.060 (3))

§ 32.38 READING REQUIREMENT; EXCEPTION FOR EMERGENCY.

(A) Except as provided in division (B) of this section, no ordinance shall be enacted until it has been read on two separate days. The reading of an ordinance may be satisfied by stating the title and reading a summary rather than the full text.

(B) In an emergency, upon the affirmative vote of two-thirds of the membership, the Council may suspend the requirements of second reading and publication in order for an ordinance to become effective

by naming and describing the emergency in the ordinance. Publication requirements of § 32.43 shall be complied with within ten days of the enactment of the emergency ordinance.

(KRS 83A.060 (4),(7))

§ 32.39 APPROVAL, DISAPPROVAL BY MAYOR.

(A) All ordinances adopted by the Council shall be submitted to the Mayor who, within ten days after submission, shall either approve the ordinance by affixing his signature or disapprove it by returning it to the Council together with a statement of his objections.

(B) No ordinance shall take effect without the Mayor's approval unless he fails to return it to the legislative body within ten days after receiving it or unless the Council votes to override the Mayor's veto, upon reconsideration of the ordinance not later than the second regular meeting following its return, by the affirmative vote of one more than a majority of the membership.

(KRS 83A.130 (6))

§ 32.40 ADOPTION OF STANDARD CODES BY REFERENCE.

The Council may adopt the provisions of any local, statewide, or nationally recognized standard code and codifications of entire bodies of local legislation by an ordinance that identifies the subject matter by title, source, and date and incorporates the adopted provisions by reference without setting them out in full, if a copy accompanies the adopting ordinance and is made a part of the permanent records of the city.

(KRS 83A.060 (5))

§ 32.41 OFFICIAL CITY RECORDS.

(A) Every action of the Council is hereby made a part of the permanent records of the city and on passage of an ordinance the vote of each member of the Council shall be entered on the official record of the meeting.

(B) The Council has provided, under the provisions of §§ 31.36(C) and 32.42, for the maintenance and safekeeping of the permanent records of the city. The City Clerk and the presiding officer shall sign the official record of each meeting.

(KRS 83A.060 (8))

§ 32.42 INDEXING AND MAINTENANCE REQUIREMENTS.

At the end of each month, all ordinances adopted in the city shall be indexed and maintained by the City Clerk in the following manner:

(A) The city budget, appropriations of money, and tax levies shall be maintained and indexed so that each fiscal year is kept separate from other years.

(B) All other city ordinances shall be kept in the minute book or an ordinance book in the order adopted and maintained in this code of ordinances.

(KRS 83A.060 (8))

§ 32.43 PUBLICATION REQUIREMENTS.

(A) Except as provided in § 32.38(B), no ordinance shall be enforceable until published pursuant to KRS Chapter 424.

(B) Ordinances may be published in full or in summary as designated by the legislative body. If the legislative body elects to publish an ordinance in summary, the summary shall be prepared and certified by an attorney licensed to practice law in the Commonwealth of Kentucky and shall include the following:

(1) The title of the ordinance;

(2) A brief narrative setting forth the main points of the ordinance in a way reasonably calculated to inform the public in a clear and understandable manner of the meaning of the ordinance; and

(3) The full text of each section that imposes fines, penalties, forfeitures, taxes or fees.

(C) Ordinances that include descriptions of real property may include a sketch, drawing, or map, including common landmarks, such as streets or roads in lieu of metes and bounds descriptions.

(KRS 83A.060 (9))

§ 32.44 ADDITIONAL REQUIREMENTS FOR ADOPTION MAY BE ESTABLISHED BY CITY.

The city may, by ordinance, specify additional requirements for adoption of ordinances in greater detail than contained herein, but the city may not lessen or reduce the substantial requirements of this chapter or any statute relating to adoption of ordinances.

(KRS 83A.060 (10))

§ 32.45 PERIODIC REVIEW REQUIRED.

Not less than once every five years all ordinances in this code of ordinances shall be examined for consistency with state law and with one another and shall be revised to eliminate redundant, obsolete, inconsistent, and invalid provisions.

(KRS 83A.060 (11))

§ 32.46 MUNICIPAL ORDERS.

(A) Council may adopt municipal orders. All municipal orders shall be in writing and shall be adopted only at an official meeting. Orders may be amended only by a subsequent municipal order or ordinance. All orders adopted shall be maintained in an official order book.

(B) In lieu of an ordinance, municipal orders may be used for matters relating to the internal operation and functions of the city and to appoint or remove or approve appointment or removal of members of boards, commissions, and other agencies over which the Council has control.
(KRS 83A.060 (12), (13))

§ 32.47 PROVED BY CLERK; RECEIVED IN EVIDENCE.

All ordinances and orders of the city may be proved by the signature of the City Clerk; and when the ordinances are placed in this code of ordinances by authority of the city, the printed copy shall be received in evidence by any state court without further proof of such ordinances.
(KRS 83A.060 (14))

§ 32.48 LEGISLATIVE IMMUNITY.

For anything said in debate, Councilmembers shall be entitled to the same immunities and protections allowed to members of the General Assembly.
(KRS 83A.060 (15))

Statutory reference:

Privileges of members of General Assembly, see KRS 6.050 and Ky. Const. § 43

CHAPTER 33: FINANCE AND REVENUE

Section

Financial Administration

- 33.01 Definitions
- 33.02 Accounting records and financial reports
- 33.03 Annual budget ordinance
- 33.04 Annual audit of city funds
- 33.05 Official depositories; disbursement of city funds

Improvements

- 33.10 Definitions
- 33.11 Financing of improvements
- 33.12 Apportionment of cost
- 33.13 Comprehensive report required
- 33.14 Public hearing required
- 33.15 Adoption of ordinance; notice to affected owners
- 33.16 Affected owner may contest
- 33.17 When city may proceed; assessment constitutes lien
- 33.18 Effect of additional property or change in financing

FINANCIAL ADMINISTRATION

§ 33.01 DEFINITIONS.

As used in this subchapter, unless the context otherwise requires, the following definitions shall apply:

BUDGET. A proposed plan for raising and spending money for specified programs, functions, activities, or objectives during a fiscal year.

DEBT SERVICE. The sum of money required to pay installments of principal and interest on bonds, notes, and other evidences of debt accruing within a fiscal year and to maintain sinking funds.

ENCUMBRANCES. Obligations in the form of purchase orders or contracts that are chargeable

to an appropriation. An obligation ceases to be an encumbrance when paid or when the actual liability is recorded.

FISCAL YEAR. The accounting period for the administration of fiscal operations.

GENERALLY ACCEPTED GOVERNMENTAL AUDITING STANDARDS. Those standards for audit of governmental organizations, programs, activities and functions issued by the Comptroller General of the United States.

(KRS 91A.010(6))

GENERALLY ACCEPTED PRINCIPLES OF GOVERNMENTAL ACCOUNTING. Those standards and procedures promulgated and recognized by the Governmental Accounting Standards Board.

(KRS 91A.010(7))

§ 33.02 ACCOUNTING RECORDS AND FINANCIAL REPORTS.

(A) The city shall keep its accounting records and render financial reports in such a way as to:

(1) Determine compliance with statutory provisions; and

(2) Determine fairly and with full disclosure the financial operations of constituent funds and account groups of the city in conformity with generally accepted governmental accounting principles.

(B) The municipal accounting system shall be organized and operated on a fund basis.

(KRS 91A.020)

§ 33.03 ANNUAL BUDGET ORDINANCE.

(A) The city shall operate under an annual budget ordinance adopted and administered in accordance with the provisions of this section. No moneys shall be expended from any governmental or proprietary fund except in accordance with a budget ordinance adopted pursuant to this section.

(B) Moneys held by the city as a trustee or agent for individuals, private organizations, or other governmental units need not be included in the budget ordinance.

(C) If in any fiscal year subsequent to a fiscal year in which the city has adopted a budget ordinance in accordance with this section, no budget ordinance is adopted, the budget ordinance of the previous fiscal year has full force and effect as if readopted.

(D) The budget ordinance of the city shall cover one fiscal year.

(E) Preparation of the budget proposal shall be the responsibility of the Mayor.

(F) The budget proposal shall be prepared in such form and detail as prescribed by ordinance.

(G) The budget proposal together with a budget message shall be submitted to Council not later than 30 days prior to the beginning of the fiscal year it covers. The budget message shall contain an explanation of the governmental goals fixed by the budget for the coming fiscal year; explain important features of the activities anticipated in the budget; set forth the reasons for stated changes from the previous year in program goals, programs, and appropriation levels; and explain any major changes in fiscal policy.

(H) (1) Council may adopt the budget ordinance making appropriations for the fiscal year in such sums as it finds sufficient and proper, whether greater or less than the sums recommended in the budget proposal. The budget ordinance may take any form that Council finds most efficient in enabling it to make the necessary fiscal policy decisions.

(2) No budget ordinance shall be adopted which provides for appropriations to exceed revenues in any one fiscal year in violation of Section 157 of the Kentucky Constitution.

(I) The full amount estimated to be required for debt service during the budget year shall be appropriated, for all governmental fund types.

(J) Council may amend the budget ordinance at any time after the ordinance's adoption, so long as the amended ordinance continues to satisfy the requirements of this section.

(K) Administration and implementation of an adopted budget ordinance shall be the responsibility of the Mayor. Such responsibility includes the preparation and submission to Council of operating statements, including budgetary comparisons of each governmental fund for which an annual budget has been adopted. Such reports shall be submitted not less than once every three months in each fiscal year.

(L) To the extent practical, the system utilized in the administration and implementation of the adopted budget ordinance shall be consistent in form with the accounting system called for in § 33.02.

(M) No city agency, or member, director, officer, or employee of any city agency, may bind the city in any way to any extent beyond the amount of money at that time appropriated for the purpose of the agency. All contracts, agreements, and obligations, express or implied, beyond such existing appropriations are void; nor shall any city officer issue any bond, certificate, or warrant for the payment of money by the city in any way to any extent, beyond the balance of any appropriation made for the purpose.

(KRS 91A.030)

§ 33.04 ANNUAL AUDIT OF CITY FUNDS.

(A) The city shall, after the close of each fiscal year, cause each fund of the city to be audited by the auditor of public accounts or a certified public accountant. The audit shall be completed by

February 1 immediately following the fiscal year being audited. The city shall forward an electronic copy of the audit report to the Department for Local Government for information purposes by no later than March 1 immediately following the fiscal year being audited.

(B) The city shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include, but not be limited to, requirements that:

(1) The auditor be employed to examine the basic financial statements which shall include the government-wide and fund financial statements;

(2) The auditor shall include in the annual or biennial city audit report an examination of local government economic assistance funds granted to the city under KRS 42.450 to 42.495. The auditor shall include a certification with the annual or biennial audit report that the funds were expended for the purpose intended.

(3) All audit information be prepared in accordance with generally accepted governmental auditing standards which includes such tests of the accounting records and such auditing procedures as considered necessary under the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;

(4) The auditor prepare a typewritten or printed report embodying:

(a) The basic financial statements and accompanying supplemental and required supplemental information;

(b) The auditor's opinion on the basic financial statements or reasons why an opinion cannot be expressed; and

(c) Findings required to be reported as a result of the audit;

(5) The completed audit and all accompanying documentation shall be presented to Council at a regular or special meeting.

(6) Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the Auditor of Public Accounts upon request of the city or the Auditor of Public Accounts, and the Auditor of Public Accounts shall have the right to review the certified public accountant's workpapers upon request.

(C) A copy of an audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to the city for financial data, except for statutory or judicial requirements, or requirements of the Legislative Research Commission necessary to carry out the purposes of KRS 6.955 to 6.975.

(D) Each city shall, within 30 days after the presentation of an audit to City Council, publish an advertisement, in accordance with KRS 424, containing:

(1) The auditor’s opinion letter;

(2) The “Budgetary Comparison Schedule–Major Funds,” which shall include the general fund and all major funds.

(3) A statement that a copy of the complete audit report, including financial statements and supplemental information, is on file at city hall and is available for public inspection during normal business hours;

(4) A statement that any citizen may obtain from city hall a copy of the complete audit report, including financial statements and supplemental information, for his or her personal use;

(5) A statement which notifies citizens requesting a personal copy of the city audit report that they will be charged for duplication costs at a rate that shall not exceed \$0.25 per page; and

(6) A statement that copies of the financial statement prepared in accordance with KRS 424.220 are available to the public at no cost at the business address of the officer responsible for preparation of the statement.

(E) Any resident of the city or owner of real property within the city may bring an action in the Circuit Court to enforce the provisions of this section. Any person who violates any provision of this section shall be deemed guilty of a misdemeanor and fined not less than \$50 nor more than \$500. In addition, any officer who fails to comply with any of the provisions of this section shall, for each failure, be subject to a forfeiture of not less than \$50 nor more than \$500, in the discretion of the court, which may be recovered only once, in a civil action brought by any resident of the city or owner of real property within the city. The costs of all proceedings, including a reasonable fee for the attorney of the resident or property owner bringing the action, shall be assessed against the unsuccessful party.

(KRS 91A.040(1)(6) - (9))

Statutory reference:

Governor’s Office for Local Development to provide assistance, see KRS 91A.050.

§ 33.05 OFFICIAL DEPOSITORIES; DISBURSEMENT OF CITY FUNDS.

(A) The Mayor shall designate as the city’s official depositories one or more banks, federally insured savings and loan companies, or trust companies within the Commonwealth. The amount of funds on deposit in an official depository shall be fully insured by deposit insurance or collateralized in accordance with 12 U.S.C. sec. 1823, to the extent uninsured, by any obligations, including surety bonds permitted by KRS 41.240(4).

(B) All receipts from any source of city money or money for which the city is responsible, which has not been otherwise invested or deposited in a manner authorized by law, shall be deposited in official depositories. All city funds shall be disbursed by written authorization approved by the Mayor which states the name of the person to whom funds are payable, the purpose of the payment, and the fund out of which the funds are payable. Each authorization shall be numbered and recorded.
(KRS 91A.060)

IMPROVEMENTS

§ 33.10 DEFINITIONS.

As used in this subchapter, unless the context otherwise requires, the following definitions shall apply:

ASSESSED VALUE BASIS. The apportionment of cost of an improvement according to the ratio the assessed value of individual parcels of property bears to the total assessed value of all such properties.

BENEFITS RECEIVED BASIS. The apportionment of cost of an improvement according to equitable determination by Council of the special benefit received by property from the improvement, including assessed value basis, front foot basis, and square foot basis, or any combination thereof, and may include consideration of assessed value of land only, graduation for different classes of property based on nature and extent of special benefits received, and other factors affecting benefits received.

COST. All costs related to an improvement, including planning, design, property or easement acquisition and construction costs, fiscal and legal fees, financing costs, and publication expenses.

FAIR BASIS. Assessed value basis, front foot basis, square foot basis, or benefits received basis.

FRONT FOOT BASIS. The apportionment of cost of an improvement according to the ratio the front footage on the improvement of individual parcels of property bears to such front footage of all such properties.

IMPROVEMENT. Construction of any facility for public use or services or any addition thereto, which is of special benefit to specific properties in the area served by such facility.

PROPERTY. Any real property benefited by an improvement.

SPECIAL ASSESSMENT or ASSESSMENT. A special charge fixed on property to finance an improvement in whole or in part.

SQUARE FOOT BASIS. The apportionment of cost of an improvement according to the ratio the square footage of individual parcels of property bears to the square footage of all such property. (KRS 91A.210)

§ 33.11 FINANCING OF IMPROVEMENTS.

(A) The city may not finance any improvement in whole or in part through special assessments except as provided in this subchapter and in any applicable statutes. (KRS 91A.200)

(B) Cost of an improvement shall be apportioned equitably on a fair basis.

(C) The city may provide for lump sum or installment payment of assessments or for bond or other long-term financing, and for any improvement may afford property owners the option as to method of payment or financing.

(KRS 91A.220)

Statutory reference:

Improvements; alternate methods, see KRS Ch. 107

§ 33.12 APPORTIONMENT OF COST.

The cost of any improvement shall be apportioned on a benefits received basis with respect to any property owned by the state, a local unit of government, or any educational, religious, or charitable organization. Council may assess such property in the same manner as for privately owned property or it may pay the costs so apportioned out of general revenues.

(KRS 91A.230)

§ 33.13 COMPREHENSIVE REPORT REQUIRED.

Before undertaking any improvements pursuant to this subchapter, the city shall prepare a comprehensive report setting out:

(A) The nature of the improvement;

(B) The scope and the extent of the improvement, including the boundaries or other description of the area to be assessed;

(C) The preliminary estimated cost of the improvement;

(D) The fair basis of assessment proposed;

(E) If financing of assessments is provided, the proposed method, including the proposed years to maturity of any bonds to be issued in connection with the improvement; and

(F) Such other information as may further explain material aspects of the improvement, assessments, or financing.

(KRS 91A.240)

§ 33.14 PUBLIC HEARING REQUIRED.

After preparation of the report required by § 33.13, the city shall hold at least one public hearing on the proposed improvement at which all interested persons shall be heard. Notice of the hearing shall be published pursuant to KRS Chapter 424, and mailed to each affected property owner by certified mail, return receipt requested, and shall include:

(A) The nature of the improvement;

(B) Description of area of the improvement;

(C) Statement that the city proposes to finance the improvement in whole or in part by special assessment of property and the method to be used;

(D) Time and place the report may be examined; and

(E) Time and place of the hearing.

(KRS 91A.250)

§ 33.15 ADOPTION OF ORDINANCE; NOTICE TO AFFECTED OWNERS.

Within 90 days of conclusion of the hearing, the city shall determine whether to proceed with the improvement by special assessments, and if it determines to proceed shall adopt an ordinance so stating and containing all necessary terms, including the items referred to in § 33.13 and a description of all properties. Promptly upon passage the city shall publish such ordinance pursuant to KRS Chapter 424 and shall mail by certified mail to each affected property owner a notice of determination to proceed with the project, the fair basis of assessment to be utilized, the estimated cost to the property owner, and the ratio the cost to each property owner bears to the total cost of the entire project.

(KRS 91A.260)

§ 33.16 AFFECTED OWNER MAY CONTEST.

(A) Within 30 days of the mailing of the notice provided for in § 33.15, any affected property owner may file an action in the circuit court of the county, contesting the undertaking of the project by special assessment, the inclusion of his property in the improvement, or the amount of his assessment. If the action contests the undertaking of the improvement by the special assessment method of the inclusion of the property of that property owner, no further action on the improvement insofar as it relates to any property owner who is a plaintiff shall be taken until the final judgment has been entered.

(B) The city may proceed with the improvement with respect to any properties whose owners have not filed or joined in an action as provided in this section or who have contested only the amounts of their assessments, and the provisions of the resolution are final and binding with respect to such property owners except as to contested amounts of assessments. After the lapse of time as herein provided, all actions by owners of properties are forever barred.

(KRS 91A.270)

§ 33.17 WHEN CITY MAY PROCEED; ASSESSMENT CONSTITUTES LIEN.

(A) After the passage of time for the action provided for in § 33.16, or after favorable final judgment in any such action, whichever comes later, the city may proceed with the improvement or part thereof stayed by the action, including notice requiring payment of special assessment or installment thereon and bonds or other method proposed to finance the improvement. The first installment may be apportioned so that other payments will coincide with payment of ad valorem taxes.

(B) The amount of any outstanding assessment or installments thereof on any property, and accrued interest and other charges, constitutes a lien on the property to secure payment to the bondholders or any other source of financing of the improvement. The lien takes precedence over all other liens, whether created prior to or subsequent to the publication of the ordinance, except a lien for state and county taxes, general municipal taxes, and prior improvement taxes, and is not defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the Council shall exempt any benefited property from the lien for the improvement assessment, or from payment thereof, or from the penalties or interest thereon, as herein provided.

(KRS 91A.280)

§ 33.18 EFFECT OF ADDITIONAL PROPERTY OR CHANGE IN FINANCING.

The city may undertake any further proceedings to carry out the improvement or any extension or refinancing thereof, except that §§ 33.13 through 33.17 applies if additional property is included in the improvement or if change is made in the method or period of financing; but additional property may be included in the improvement with the consent of the owner thereof without compliance with other sections if it does not increase the cost apportioned to any other property, or any other change may be made without such compliance if all property owners of the improvement consent.

(KRS 91A.290)

CHAPTER 34: PUBLIC RECORDS

Section

General Provisions

- 34.01 Definitions

Procedures for Requesting Public Records

- 34.05 Initial request with immediate inspection
34.06 Referral to proper custodian
34.07 Public records not immediately available
34.08 Refusal of unreasonable requests
34.09 Time limitation; denial of inspection
34.10 Concealing or destroying records prohibited
34.11 Access to records relating to particular individual
34.12 Format of copies
34.13 Fees for copies
34.14 Misstatement of purpose prohibited
34.15 Online access to public records in electronic form
34.16 Public records protected from disclosure
34.17 Notification of the Attorney General

GENERAL PROVISIONS

§ 34.01 DEFINITIONS.

For purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

CITY. The city government of this city.

COMMERCIAL PURPOSE. The direct or indirect use of any part of a public record or records, in any form, for sale, resale, solicitation, rent, or lease of a service, or any use by which the user expects a profit either through commission, salary, or fee. **COMMERCIAL PURPOSE** shall not include:

- (1) Publication or related use of a public record by a newspaper or periodical;
- (2) Use of a public record by a radio or television station in its news or other informational programs; or
- (3) Use of a public record in the preparation for prosecution or defense of litigation, or claims settlement by the parties to such action, or the attorneys representing the parties.

CUSTODIAN. The official custodian or any authorized person having personal custody and control of public records. The **CUSTODIAN** having personal custody of most of the public records of this city is the City Clerk.

MECHANICAL PROCESSING. Any operation or other procedure which is transacted on a machine, and which may include, but is not limited to a copier, computer, recorder or tape processor, or other automated device.

MEDIA. The physical material in or on which records may be stored or represented, and which may include, but is not limited to paper, microform, disks, diskettes, optical disks, magnetic tapes, and cards.

OFFICIAL CUSTODIAN. The chief administrative officer or any other officer or employee of a public agency who is responsible for the maintenance, care, and keeping of public records, regardless of whether such records are in his actual personal custody and control. The **OFFICIAL CUSTODIAN** of this city shall be the Mayor.

PERSON. A human being who makes a request for inspection of public records.

PRESCRIBED FEE or FEE. The fair payment required by the city for making copies of public records and for mailing public records, which shall not exceed the actual cost thereof and shall not include the cost of required staff time.

PUBLIC AGENCY. The city, including its legislative body and every officer, department and division of the city; every entity created by authority of the city; any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council or agency created and controlled by the city; and any interagency body in which the city participates (see KRS 61.870).

PUBLIC RECORDS. All books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by the public agency. **PUBLIC RECORDS** shall not include any records owned or maintained by or for the public agency that are not related to functions, activities, programs, or operations funded by the public agency nor any records that may be excluded by § 34.16.

REQUEST. An oral or written application by any person to inspect public records of the agency.

SOFTWARE. The program code which makes a computer system function, but does not include

that portion of the program code which contains public records exempted from inspection as provided by KRS 61.878 or specific addresses of files, passwords, access codes, user identifications, or any other mechanism for controlling the security or restricting access to public records in the public agency's computer system. **SOFTWARE** consists of the operating system, application programs, procedures, routines, and subroutines such as translators and utility programs, but does not include that material which is prohibited from disclosure or copying by a license agreement between a public agency and an outside entity which supplied the material to the agency.
(KRS 61.870)

PROCEDURES FOR REQUESTING PUBLIC RECORDS

§ 34.05 INITIAL REQUEST WITH IMMEDIATE INSPECTION.

(A) Any person desiring to inspect or copy the public records of this city shall make a request for inspection at the office of the City Clerk during regular office hours, except during legal holidays. The official custodian, or the custodian acting under the authority of the official custodian, may require a request to inspect public records to be in writing, signed by the applicant and with the applicant's name printed legibly on the application. A written request to inspect public records may be presented by hand delivery, mail or via facsimile, if one is available.

(B) If the custodian determines that a person's request is in compliance with this chapter and the open records law, and the requested public records are immediately available, the custodian shall deliver the records for inspection. A person may inspect public records at the designated office of the city during the regular office hours, or in appropriate cases, by receiving copies of the records through the mail.

(C) If the public records are to be inspected at the offices of the city, suitable facilities shall be made available in the office of the City Clerk or in another office of the city as determined by the official custodian or custodian for the inspection. No person shall remove original copies of public records from the offices of the city without the written permission of the official custodian of the record. When public records are inspected at the city offices, the person inspecting the records shall have the right to make abstracts and memoranda of the public records and to obtain copies of all written public records. When copies are requested, the custodian may require advance payment of the prescribed fee.

(D) Upon proper request, the city shall mail copies of the public records to a person whose residence or principal place of business is located outside of the county after the person precisely describes the public records which are readily available and after the person pays in advance the prescribed fee.

§ 34.06 REFERRAL TO PROPER CUSTODIAN.

If the City Clerk does not have custody or control of the public record or records requested, the City Clerk shall notify the applicant and shall furnish the name and location of the official custodian of the agency's public records.

(KRS 61.872(4))

§ 34.07 PUBLIC RECORDS NOT IMMEDIATELY AVAILABLE.

If the public record is in active use, in storage, or not otherwise available, the official custodian shall immediately notify the applicant and shall designate a place, time, and date for inspection or mailing of the public records, not to exceed five days (excepting Saturdays, Sundays, and legal holidays) from receipt of the application, unless a detailed explanation of the cause is given for further delay and the place, time, and earliest date on which the public record will be available for inspection or duplication.

(KRS 61.872(5))

§ 34.08 REFUSAL OF UNREASONABLE REQUESTS.

If the application places an unreasonable burden in producing public records, or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency, the official custodian may refuse to permit inspection of the public records or mail copies thereof. However, refusal under this section must be sustained by clear and convincing evidence.

(KRS 61.872(6))

§ 34.09 TIME LIMITATION; DENIAL OF INSPECTION.

The official custodian, upon any request for records made under this chapter, shall determine within five days (excepting Saturdays, Sundays, and legal holidays) after the receipt of any request whether to comply with the request and shall notify in writing the person making the request within the five-day period of its decision. Any agency response denying, in whole or in part, inspection of any record shall include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld. The response shall be issued by the official custodian or under his authority and shall constitute final agency action.

(KRS 61.880(1))

§ 34.10 CONCEALING OR DESTROYING RECORDS PROHIBITED.

No official of the city shall willfully conceal or destroy any record with the intent to violate the provisions of this chapter or these rules and regulations.

§ 34.11 ACCESS TO RECORDS RELATING TO PARTICULAR INDIVIDUAL.

Any person shall have access to any public record relating to him or in which he is mentioned by name, upon presentation of appropriate identification, subject to the provisions of § 34.16 of these rules and regulations.

(KRS 61.884)

§ 34.12 FORMAT OF COPIES.

(A) Upon inspection, the applicant shall have the right to make abstracts of the public records and memoranda thereof, and to obtain copies of all public records not exempted by the terms of § 34.16. When copies are requested, the custodian may require a written request and advance payment of the prescribed fee, including postage where appropriate. If the applicant desires copies of public records other than written records, the custodian of the records shall duplicate the records or permit the applicant to duplicate the records; however, the custodian shall ensure that such duplication will not damage or alter the original records.

(B) (1) Nonexempt public records used for noncommercial purposes shall be available for copying in either standard electronic or standard hard copy format, as designated by the party requesting the records, where the agency currently maintains the records in electronic format. Nonexempt public records used for noncommercial purposes shall be copied in standard hard copy format where agencies currently maintain records in hard copy format. Agencies are not required to convert hard copy format records to electronic formats.

(2) The minimum standard format in paper form shall be defined as not less than 8½ inches x 11 inches in at least one color on white paper, or for electronic format, in a flat file electronic American Standard Code for Information Interchange (ASCII) format. If the public agency maintains electronic public records in a format other than ASCII, and this format conforms to the requestor's requirements, the public record may be provided in this alternate electronic format for standard fees as specified by the public agency. Any request for a public record in a form other than the forms described in this section shall be considered a nonstandardized request.

(KRS 61.874(1) - (3))

§ 34.13 FEES FOR COPIES.

(A) The public agency may prescribe a reasonable fee for making copies of nonexempt public records requested for use for noncommercial purposes which shall not exceed the actual cost of reproduction, including the costs of the media and any mechanical processing cost incurred by the public agency, but not including the cost of staff required. If a public agency is asked to produce a record in a nonstandardized format, or to tailor the format to meet the request of an individual or a group, the public agency may at its discretion provide the requested format and recover staff costs as well as any actual costs incurred.

(B) (1) Unless an enactment of the General Assembly prohibits the disclosure of public records

to persons who intend to use them for commercial purposes, if copies of nonexempt public records are requested for commercial purposes, the public agency may establish a reasonable fee.

(2) The public agency from which copies of nonexempt public records are requested for a commercial purpose may require a certified statement from the requestor stating the commercial purpose for which they shall be used, and may require the requestor to enter into a contract with the agency. The contract shall permit use of the public records for the stated commercial purpose for a specified fee.

(3) The fee provided for in division (B)(1) of this section may be based on one or both of the following:

(a) Cost to the public agency of media, mechanical processing, and staff required to produce a copy of the public record or records;

(b) Cost to the public agency of the creation, purchase, or other acquisition of the public records.

(KRS 61.874(3),(4))

Cross-reference:

Fees for online access to public records, see § 34.15

§ 34.14 MISSTATEMENT OF PURPOSE PROHIBITED.

It shall be unlawful for a person to obtain a copy of any part of a public record for a:

(A) Commercial purpose, without stating the commercial purpose, if a certified statement from the requestor was required by the public agency pursuant to § 34.13;

(B) Commercial purpose, if the person uses or knowingly allows the use of the public record for a different commercial purpose; or

(C) Noncommercial purpose, if the person uses or knowingly allows the use of the public record for a commercial purpose. A newspaper, periodical, radio or television station shall not be held to have used or knowingly allowed the use of the public record for a commercial purpose merely because of its publication or broadcast, unless it has also given its express permission for that commercial use.

(KRS 61.874(5)) Penalty, see § 10.99

§ 34.15 ONLINE ACCESS TO PUBLIC RECORDS IN ELECTRONIC FORM.

(A) Online access to public records in electronic form may be provided and made available at the discretion of the public agency. If a party wishes to access public records by electronic means and the public agency agrees to provide online access, a public agency may require that the party enter into a contract, license, or other agreement with the agency, and may charge fees for these agreements.

(B) Fees shall not exceed:

(1) The cost of physical connection to the system and reasonable cost of computer time access charges; and

(2) If the records are requested for a commercial purpose, a reasonable fee based on the factors set forth in § 34.13.

(KRS 61.874(6))

§ 34.16 PUBLIC RECORDS PROTECTED FROM DISCLOSURE.

(A) The following public records are excluded from the application of this chapter and these rules and regulations and shall be subject to inspection only upon order of a court of competent jurisdiction, except as provided in KRS 61.878(1) that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:

(1) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(2) Records confidentially disclosed to an agency and compiled and maintained for scientific research. This exemption shall not, however, apply to records the disclosure or publication of which is directed by other statute.

(3) (a) Records confidentially disclosed to the agency, or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.

(b) Records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which are compiled and maintained:

1. In conjunction with an application for or the administration of a loan or a grant;

2. In conjunction with an application for or the administration of assessments, incentives, inducements, and tax credits as described in KRS Ch. 154;

3. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or

4. For the grant or review of a license to do business.

(c) The exemptions provided for in divisions (A)(3)(a) and (b) above, shall not apply to records the disclosure or publication of which is directed by statute.

(4) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within, or expanding within the Commonwealth. This exemption shall not include those records pertaining to applications to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in division (A) (2) above.

(5) Public records which are developed by an agency in conjunction with the regulation or supervision of financial institutions, including but not limited to, banks, savings and loan associations, and credit unions, which disclose the agency's internal examining or audit criteria and related analytical methods.

(6) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made by or for a public agency relative to the acquisition of property, until such time as all of the property has been acquired. The law of eminent domain shall not be affected by this provision.

(7) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the exam is given or if it is to be given again.

(8) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations, if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of this chapter, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action. The exemptions provided by this subdivision shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this chapter.

(9) Public or private records, including books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, having historic, literary, artistic, or commemorative value accepted by the archivist of a public university, museum, or government depository from a donor or depositor other than a public agency. This exemption shall apply to the extent that nondisclosure is requested in writing by the donor or depositor of such records, but shall not apply to records the disclosure or publication of which is mandated by another statute or by federal law.

(10) (a) Public records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act and limited to:

1. Criticality lists resulting from consequence assessments;
2. Vulnerability assessments;
3. Antiterrorism protective measures and plans;

4. Counterterrorism measures and plans;

5. Security and response needs assessments;

6. Infrastructure records that expose a vulnerability referred to in this division (A)(10) through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;

7. The following records when their disclosure will expose a vulnerability referred to in this division (A)(10): detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems of any building or facility owned, occupied, leased, or maintained by a public agency; and

8. Records when their disclosure will expose a vulnerability referred to in this division (A)(10) and that describe the exact physical location of hazardous chemical, radiological, or biological materials.

(b) As used in this division (A)(10), ***TERRORIST ACT*** means a criminal act intended to:

1. Intimidate or coerce a public agency or all or part of the civilian population;

2. Disrupt a system identified in division (A)(6) above; or

3. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.

(c) On the same day that a public agency denies a request to inspect a public records for a reason identified in this division (A), that public agency shall forward a copy of the written denial of the request, referred to in KRS 61.880(1), to the executive director of the Kentucky Office of Homeland Security and the Attorney General.

(d) Nothing in this division (A) shall affect the obligations of a public agency with respect to disclosure and availability of public records under state environmental, health, and safety programs.

(e) The exemption established in this division (A) shall not apply when a member of the Kentucky General Assembly seeks to inspect a public record identified in this division (A) under the Open Records Law.

(11) Preliminary drafts, notes, or correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency.

(12) Preliminary recommendations and preliminary memoranda in which opinions are expressed or policies formulated or recommended.

(13) All public records or information the disclosure of which is prohibited by federal law or regulation or state law.

(14) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly, including any information acquired by the Department of Revenue in tax administration that is prohibited from divulgence or disclosure under KRS 131.190.

(15) Records of a procurement process under KRS Chapter 45A or 56. This exemption shall not apply after:

(a) A contract is awarded; or

(b) The procurement process is canceled without award of a contract and there is a determination that the contract will not be resolicited.

(16) Client and case files maintained by the Department of Public Advocacy or any person or entity contracting with the Department of Public Advocacy for the provision of legal representation under KRS Chapter 31.

(17) Communications of a purely personal nature unrelated to any governmental function.

(B) No exemption under this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person. In addition, if any public record contains material which is not excepted under this section, the city shall separate the excepted and make the nonexcepted material available for examination, subject to the possible applicability of § 34.08.

(C) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

(D) No exemption under this section shall be construed to deny, abridge, or impede the right of a municipal employee, an applicant for employment, or an eligible on a register to inspect and copy any record, including preliminary and other supporting documentation, that relates to him. Such records shall include, but not be limited to work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, layoffs, disciplinary actions, examination scores, and preliminary and other supporting documentation. A city employee, applicant, or eligible shall not have the right to inspect or copy any examination or any documents relating to ongoing criminal or administrative investigations by any agency.

(KRS 61.878)

§ 34.17 NOTIFICATION OF THE ATTORNEY GENERAL.

The official custodian shall notify the Attorney General of any actions filed against the city in circuit court regarding the enforcement of the open records law, KRS 61.870 to 61.884.

CHAPTER 35: TAXATION

Section

- 35.01 County assessment adopted
- 35.02 Due date; payment
- 35.03 Delinquency
- 35.04 Ad valorem taxes on motor vehicles
- 35.05 Disposition of funds
- 35.06 Bank franchise and local deposit tax

Cross-reference:

Restaurant and hotel taxes, see Chapter 115

§ 35.01 COUNTY ASSESSMENT ADOPTED.

(A) Pursuant to the authority granted in KRS 132.285, the city hereby adopts the Breathitt County assessment for all real and personal property situated within the city as the basis of all ad valorem tax levies ordered or approved by the City Council.

(B) The assessment as finally determined for county tax purposes shall serve as the basis for all city levies for the fiscal year commencing after the assessment date.
(Ord. 41790, passed 4-17-90; Am. Ord. 61990, passed 6-19-90)

§ 35.02 DUE DATE; PAYMENT.

(A) All taxes, except ad valorem taxes on motor vehicles, shall become due within 60 days.

(B) Any taxpayer who pays his city taxes within 30 days shall be entitled to a 2% discount thereon, and the Clerk shall allow the discount and give a receipt in full to the taxpayer.
(Ord. 110491, passed 11-4-91)

§ 35.03 DELINQUENCY.

(A) All city taxes, except ad valorem taxes on motor vehicles, shall become delinquent if not paid within 90 days and shall be subject to a penalty of 2% on the taxes due and unpaid.

(B) Any taxes paid after 90 days shall be subject to a penalty of 10% on the taxes due and unpaid. The delinquent taxpayer shall also pay all costs and expenses incidental to any action taken by the city for collection of the delinquent tax bill.

(C) Delinquent taxes shall be collectable under the provisions of the state law relating to the collection of delinquent taxes by cities of the fourth class.
(Ord. 110491, passed 11-4-91)

§ 35.04 AD VALOREM TAXES ON MOTOR VEHICLES.

(A) All ad valorem taxes on motor vehicles shall be collected by the Breathitt County Clerk in accordance with KRS 134.800.

(B) Ad valorem taxes on motor vehicles shall become due and delinquent as set forth in KRS 134.810 and any such taxes not paid by the date when they become delinquent shall be subject to the penalty and interest specified in KRS 134.810.

§ 35.05 DISPOSITION OF FUNDS.

All monies collected from the taxes levied in this chapter shall be paid into the General Fund of the city to be used for the payment of proper expenditures as determined by the City Council.

§ 35.06 BANK FRANCHISE AND LOCAL DEPOSIT TAX.

(A) *Tax rate.* There is hereby imposed on all financial institutions, as defined in KRS Chapter 136, located within the corporate limits of the city for the 1997 tax year and all subsequent years, a franchise tax at the rate of 0.018% on all deposits, as defined in KRS Chapter 136, maintained by such financial institutions.

(B) *Collection.* For the 1997 tax year, the following timetable is hereby established:

(1) The city will issue tax bills to financial institutions no later than December 1 of each year.

(2) Payment of the tax shall be due with a 2% discount by December 31 of each year, or without the discount by January 31 of each year.

(C) *Lien.* The city shall have a lien for taxes upon any and all property subject to the tax imposed by these sections, which lien shall be superior to all encumbrances prior or subsequent.

(D) *Delinquency.* All taxes due in accordance with this section which are not paid before January 31, for all subsequent tax years, shall be deemed delinquent, and shall be subject to a penalty of 10%, and shall bear interest at the rate of 12% per annum.

(E) *Tax use.* All moneys collected pursuant to these sections shall be paid into the general fund of the city to be used for the payment of proper expenditures as determined by the City Council.
(Ord. 081997, passed 8-19-97)

CHAPTER 36: DISCRIMINATION BASED ON HANDICAPPED STATUS

Section

- 36.01 Adoption of procedures
- 36.02 Administration
- 36.03 Amendment of procedure
- 36.04 Grievance procedures for discrimination based on handicapped status

§ 36.01 ADOPTION OF PROCEDURES.

The procedures explained in this chapter shall be the grievance procedures for anyone who believes he or she has been discriminated against by the city based on handicapped status with respect to federally funded programs.

(Ord. 101884, passed 10-18-84)

§ 36.02 ADMINISTRATION.

The administration of these procedures and related federal and state regulations shall be the responsibility of the executive authority of the city.

(Ord. 101884, passed 10-18-84)

§ 36.03 AMENDMENT OF PROCEDURE.

The procedures set forth in § 36.04 may be amended by ordinance to comply with court directives or additional federal and state regulations.

(Ord. 101884, passed 10-18-84)

§ 36.04 GRIEVANCE PROCEDURES FOR DISCRIMINATION BASED ON HANDICAPPED STATUS.

(A) Any person (employee or citizen) who believes that he or she has been subjected to discrimination as prohibited by Section 504 of the Rehabilitation Act of 1973, may personally or by a representative, file a complaint with the office of the Mayor. A person who has not personally been subjected to discrimination may also file a complaint.

(B) Any person (citizen, applicant, or employee) who believes he or she has been adversely affected by an act or decision of the city, and that such act or decision was based on handicapped status, shall have the right to process a complaint or grievance in accordance with the following procedure.

(1) *Step one.* An aggrieved person must submit a written statement to the Mayor setting forth the nature of the discrimination alleged and facts upon which the allegation is based.

(2) *Step two.*

(a) The Mayor shall contact the complainant no later than 15 days after receiving the written statement to establish an informal meeting with the objective of resolving the matter informally. However, in no case shall the informal meeting be conducted sooner than five days nor more than 45 days after receiving the written statement.

(b) There shall be prepared a written documentary of the discussions at the informal meeting which shall be preserved in the records of the city.

(3) *Step three.* Within 15 days of the informal meeting, if no decision has been made by the Mayor or the decision of the Mayor does not satisfy the complainant, he or she may request a hearing with the City Council by submitting a written request to the Mayor.

(4) *Step four.*

(a) In thus discussing the grievance, the complainant may designate any person of his choice to appear with him and participate in the discussion. The City Council shall require the Mayor to participate in the discussion on the grievance, when it is brought before the City Council. The City Council shall issue a written decision on the matter within 15 days, and the decision shall be the final procedure for the complainant at the local level.

(b) There shall be prepared a written documentary of the discussion at the hearing, which shall be preserved in the records of the city.
(Ord. 101884, passed 10-18-84)

TITLE V: PUBLIC WORKS

Chapter

50. SEWERS

51. SOLID WASTE MANAGEMENT

52. WATER

CHAPTER 50: SEWERS

Section

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Jackson - Public Works

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GENERAL PROVISIONS**§ 50.001 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOD₅ (DENOTING BIOCHEMICAL OXYGEN DEMAND). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in parts per million (ppm) by weight.

BUILDING DRAIN. That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside of the inner surface of the building wall.

BUILDING SEWER. The extension from the building drain to the point of connection with the public sewer or other place of disposal.

COMBINED SEWER. A sewer receiving both surface runoff and sewage.

EQUALIZATION. Reduction in magnitude of sewage discharge flow rate.

GARBAGE. Solid waste from the preparation, cooking and dispensing of food, and from handling, storage and sale of produce.

INDUSTRIAL WASTE. The liquid waste from industrial or other technical processes.

MAY. Is permissive.

OUTLET. Any outlet into a water course, pond, ditch, lake or other body of surface or ground water.

PERSON. Any individual, firm, company, association, society, corporation or group.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE. The waste from the preparation, cooking and dispensing of food that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than ½-inch in any dimension.

PUBLIC SEWER. A sewer controlled by the city to which owners of abutting properties may have access. In general, the public sewer shall include the main sewer in the street and the service branch to the curb or property line, or a main sewer upon private property and any sewers which are connected with the sewage system of the city, to the extent of ownership by public authority.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface and ground water are not intentionally admitted.

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS. All facilities for collecting, pumping, treating and disposing of sewage.

SEWAGE. A combination of the water carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm water as cannot be excluded.

SEWER. A pipe or conduit for carrying sewage.

SHALL. Is mandatory.

SLUG. Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flow during normal operation.

STORM SEWER or **STORM DRAIN.** A sewer which carries storm and surface water and drainage, but excludes sewage and polluted industrial waste.

SUPERINTENDENT. The representative of the city in charge of the sewage works.

SUSPENDED SOLIDS. Solids that either float on the surface of, or are in suspension in water, sewage or other liquids and which are removable by standard laboratory filtration procedures.

WATERCOURSE. A channel in which a flow of water occurs either continuously or intermittently. (Ord. 11690, passed 1-16-90; Am. Ord. 62696, passed 6-26-96)

§ 50.002 DEPOSITING OBJECTIONABLE WASTE PROHIBITED.

It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the city or any area under the jurisdiction of the city or into any sewer which connects to the storm sewer system of the city any human or animal excrement, garbage or other objectionable waste.

(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.003 DISCHARGE OF UNTREATED SEWAGE OR OTHER POLLUTED WATERS TO NATURAL OUTLETS.

It shall be unlawful to discharge to any outlet within the city, or in any area under the jurisdiction of the city, any sanitary sewage, industrial waste or other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.004 PRIVIES, SEPTIC TANKS AND OTHER FACILITIES.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for disposal of sewage, where sewer service is available.

(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.005 MANDATORY SEWER CONNECTION.

The owner of all houses, buildings or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley or sewer right-of-way in which there is located a public sanitary or combined sewer of the city, is hereby required at his own expense to install suitable toilet facilities directly with the proper public sewer in accordance with the provisions of this chapter within 90 days of official notice to do so.

(Ord. 11690, passed 1-16-90)

§ 50.006 COMPLIANCE WITH LOCAL, STATE AND FEDERAL LAWS.

It shall be unlawful for any person to discharge any pollutant to the sewage works except in compliance with federal standards as promulgated pursuant to the Federal Water Pollution Control Act Amendments of 1977, and any more stringent state and/or local standards as may be contained herein. (Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.007 TAMPERING WITH OR DAMAGING CITY EQUIPMENT.

No unauthorized person shall intentionally or wantonly break, damage, destroy, uncover, deface or tamper with any structure, appurtenances, or equipment which is a part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under charge of criminal mischief.

(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

Statutory reference:

Criminal mischief, see KRS 512.020 through 512.040

§ 50.008 SERVICE TO ADJACENT UNINCORPORATED AREAS.

Service to adjacent unincorporated areas will depend upon availability of capacity at the time of the request, legality of service to the area, and financial feasibility of service. A separate ordinance will be adopted to establish procedures, connection charges, and service fees as the need for this type of service arises.

(Ord. 11690, passed 1-16-90)

PRIVATE SEWAGE DISPOSAL**§ 50.020 CONNECTING BUILDING SEWER TO PRIVATE SEWAGE DISPOSAL SYSTEM.**

Where a public sanitary sewer is not available under the provisions of § 50.005, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this subchapter. (Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.021 WRITTEN PERMIT TO BE OBTAINED.

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit issued by the Superintendent after approval of the system by the Jackson County Health Department, and the state if required. The application for such permit shall be made on a form furnished by the city which the applicant shall supplement by any plans, specifications and

other information as deemed necessary by the Superintendent.
(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.022 INSPECTION AND APPROVAL OF INSTALLATION.

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent, the city, the Breathitt County Health Department, and the state if required. They shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours receipt of notice by the Superintendent, Saturdays, and holidays excepted.
(Ord. 11690, passed 1-16-90)

§ 50.023 COMPLIANCE WITH COUNTY AND STATE DEPARTMENTS.

The type, capacities, location and layout of a private sewage disposal system shall comply with all regulations of the city, the Breathitt County Health Department, the Kentucky Natural Resources and Environmental Protection Cabinet, and the State Department of Housing and Buildings and Construction.
(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.024 CONNECTING PRIVATE SEWAGE DISPOSAL SYSTEM TO PUBLIC SEWER.

At such times as a public sewer becomes available to a property served by a private sewage disposal system, as provided in § 50.005, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools or other private sewage disposal facilities shall be abandoned and filled with suitable material, or salvaged and removed.
(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.025 MAINTENANCE OF PRIVATE SEWAGE DISPOSAL FACILITIES.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.
(Ord. 11690, passed 1-16-90)

§ 50.026 NONINTERFERENCE WITH ADDITIONAL REQUIREMENTS.

No statement contained in this subchapter shall be construed to interfere with any additional requirements that may be imposed by the city, the Breathitt County Health Department, or the state.
(Ord. 11690, passed 1-16-90)

BUILDING SEWERS AND CONNECTIONS**§ 50.040 PERMIT REQUIRED FOR CONNECTION.**

No person shall uncover, make any connection with or opening into, use alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.
(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.041 BUILDING SEWER PERMITS.

There shall be two classes of building sewer permits: one for residential and for service to nonresidential establishments. In either case, the owner or his agent, shall make application for a permit on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent.
(Ord. 11690, passed 1-16-90)

§ 50.042 COSTS AND EXPENSES OF INSTALLATION AND CONNECTION OF BUILDING SEWER.

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. Fees for connection shall be as required in §§ 50.075 through 50.083 or as established by the city.
(Ord. 11690, passed 1-16-90)

§ 50.043 DESIGN AND INSTALLATION.

(A) A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway in which case the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, subject to approval of the Superintendent.

(B) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this chapter.

(C) In all buildings in which any sanitary facility drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by an approved means and discharged to the building sewer. Drain pipe and sump for collection of such sanitary drainage shall be above basement floor or in separately watertight or drained sump or channel.

(D) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard on streets, sidewalks, parkways and other public property satisfactory to the city.

(E) All building sewers shall be installed in accordance with the general specifications for the construction of water facilities, sewerage facilities, streets, curbs, and gutter and storm drainage which may be adopted by the city.

(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.044 PROHIBITED CONNECTIONS.

(A) No person shall make connection of roof downspouts, basement wall seepage or floor seepage, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(B) Floor, basement or crawl space drains which are lower than ground surfaces surrounding the building shall not be connected to the building sanitary sewer. No sanitary inlet which is lower than six inches above the top of the lowest of the two adjacent public sanitary sewer manholes shall be connected by direct drainage to the building sanitary sewer.

(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.045 INSPECTION AND CONNECTION TO PUBLIC SEWER.

(A) The building sewer shall be connected into the public sewer, only upon authorization and inspection by authorized agents of the Superintendent. Where no properly located service branch is available, an authorized agent of the Superintendent shall cut a neat hole into the main line of the public sewer and a suitable wye or tee saddle installed to receive the building sewer. The invert of the building sewer at such joint of connection with a wye saddle shall be in the upper quadrant of the main line of the public sewer. A neat workmanlike connection not extending past the inner surface of the public sewer shall be made and the saddle made secure and watertight by encasement in concrete, or with Epoxy cement specially prepared for this purpose. The first length of the building sewer after the connection to the public sewer shall be a wye-branch, with the branch laid on top pointing away from the public sewer, temporarily plugged for use in smoke testing of the building sewer.

(B) The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative.

(Ord. 11690, passed 1-16-90)

USE OF PUBLIC SEWERS**§ 50.055 DISCHARGE OF STORMWATER AND OTHER UNPOLLUTED DRAINAGE.**

(A) No persons shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cellar drainage of ground water origin to any sanitary sewer. The Superintendent or his representative shall have the right, at any time, to inspect the inside or outside of buildings or smoke test for connections to building sewers and require disconnection of any pipes carrying such water to the building sewer. No sanitary drain sump, sump pump discharge by manual switchover of discharge connection shall have a dual use for removal of such water. Facilities shall be entirely separate.

(B) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to an outlet approved by the Superintendent. Industrial cooling water or unpolluted process water may be discharged, upon approval of the Superintendent, to a storm sewer or other outlet.

(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.056 PROHIBITED DISCHARGES TO PUBLIC SEWERS.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(A) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

(B) Any waters or wastes containing toxic or poisonous liquids, solids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

(C) Any waters or wastes having a pH lower than (6.0) or greater than (9) or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(D) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, and the like either whole or ground by garbage grinders.

(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.057 DISCHARGE OF CERTAIN WASTES RESTRICTED.

The following described substances, materials, waters or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process, or equipment, will not have an adverse effect on the receiving stream or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Superintendent may set limitations lower than the limitations established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the Superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the city are as follows:

(A) Any liquid or vapor having a temperature higher than 150° F. (65° C).

(B) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 ppm or containing substances which may solidify or become viscous at temperatures between 32° F. and 150° F. (0° C. and 65° C.).

(C) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (9.76 hp metric) or greater shall be subject to review and approval of the Superintendent.

(D) Any water or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(E) Any water or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, to such degree that exceeds the limits which may be established by the city for such materials.

(F) Any water or wastes containing phenols or other taste or odor producing substances, in such concentrations that will impair the quality of the body of water receiving the treatment plant effluent.

(G) Any water or wastes having a five day biochemical oxygen demand greater than 300 ppm; more than 350 ppm of suspended solids; unusual chemical oxygen demand (greater than 1,000 ppm); chlorine requirements greater than 50 ppm, exceeding the above limits or, in the opinion of the Superintendent, in such quantities as to constitute a significant load on the sewage treatment works; or unusual volume of flow or concentration of wastes constituting "slugs" as defined in § 50.001.

(H) Water or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over

discharge to the receiving waters.

(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.058 PRETREATMENT, EQUALIZATION OF WASTE FLOWS.

If any waters or wastes are discharged, or are proposed to be discharged to public sewers, which waters contain the substances or possess the characteristics enumerated in § 50.057 or which violate any provisions of this chapter, and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

(A) Reject the wastes.

(B) Require pretreatment to an acceptable condition for discharge to the public sewers.

(C) Require equalization or other control over the quantities and rates of discharge, and/or

(D) (1) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

(2) If the Superintendent permits the pretreatment or equalization of waste flows, the plans, specifications and any other pertinent information relating to the proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent. No construction of such facilities shall be commenced until said approvals are obtained in writing.

(E) Terminate authorization to discharge to the city's sewerage works.

(Ord. 11690, passed 1-16-90)

§ 50.059 PRELIMINARY TREATMENT OR FLOW-EQUALIZING FACILITIES.

Where preliminary treatment facilities are provided for any water or waste, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.060 GREASE, OIL AND SAND INTERCEPTORS; MAINTENANCE BY OWNER.

(A) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.

(B) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperatures. They shall be of substantial construction, watertight and equipped with easily removable covers, which, when bolted in place shall be gastight and watertight.

(C) Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.
(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.061 INDUSTRIAL WASTE CHARACTERIZATION REQUIRED.

Any person desiring to make a new connection to the sewage works for the purpose of discharging industrial wastes to the public sewers, shall file with the Superintendent an industrial waste characterization which shall furnish pertinent or predicted data inclusive of flow rate and an analysis of the industrial waste to be discharged into the sewerage system.
(Ord. 11690, passed 1-16-90)

§ 50.062 CONTROL MANHOLE; AUTOMATIC SAMPLING DEVICE; MEASUREMENTS, TEST AND ANALYSES.

(A) The owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

(B) When in the opinion of the Superintendent based upon his review of the wastewater questionnaire or upon requirements of a state or federal regulation, an automatic sampling device is needed for taking continuous samples of the discharge water, such a device shall be furnished and installed at the owner's expense the control manhole or other location suitable to the Superintendent. Samples from such device shall be tested for pollutants as determined by the Superintendent in accordance with this division at the owner's expense by either an independent laboratory or the city's treatment facility.

(C) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a 24-hour composite

of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)
(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.063 INDUSTRIAL WASTES; SPECIAL AGREEMENT.

No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to the payment therefore by the industrial concern.

(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

§ 50.064 INDUSTRIAL WASTE DISCHARGER TO MEET FEDERAL GOVERNMENT GUIDELINES.

All industrial users shall comply with the Federal Industrial Pretreatment Standards as promulgated by the Environmental Protection Agency in accordance with Section 307 of the "Federal Water Pollution Control Act Amendments of 1977" and subsequent revisions thereof.

(Ord. 11690, passed 1-16-90) Penalty, see § 50.999

RATES AND CHARGES

§ 50.075 SEWER CONNECTION CHARGES.

For applicants who sign a connection agreement after the date of completion of the project, as certified by the engineers for the city, the sewer connection charge shall be \$300, which charge includes the city's costs for processing applications and inspecting connections to the sewer system.

(Ord. 11591, passed 1-15-91)

§ 50.076 MONTHLY SEWER USER RATES AND CHARGES.

(A) The schedule of monthly sewer rates for services rendered by the municipal waterworks and water distribution system is outlined below.

<i>Sewer Bill Rate Structure</i>	
<i>Customers with Water and Sewer Service</i>	
<i>Gallons Increment</i>	<i>Cost per 1,000 Gallons</i>
First 2,000 gallons (Minimum Bill)	\$16.64
All over 2,000 gallons	\$9.53

(B) *Indexing of sewer rates.*

(1) Rates for sewer services are tied to the Consumer Price Index as published by the Federal Reserve Bank of Cleveland, Ohio. Rates may be adjusted upward annually at the discretion of the Mayor at the percentage established by an increase in the Consumer Price Index.

(2) The increase in rates, regardless of the Consumer Price Index increase, may not exceed 3% in any one year without the full vote of the City Council.

(3) Increases less than 3% require no further approval or authorization to be enacted. The Mayor may authorize the Water Clerk or City Accountant to administer the rate increase after receipt of the Consumer Price Index for the previous federal fiscal year. Any adjustment to be made shall be levied in July of each year.

(4) If annual expenses of the Jackson sewer department indicate more than a 3% increase from the previous fiscal year, or, if the Consumer Price Index reports an increase greater than 3%, the Mayor may propose a rate increase exceeding 3%, the Mayor may propose a rate increase exceeding 3% to the Council. To raise the sewer rates more than 3%, the higher increase must have the full approval of the Council.

(5) If the Consumer Price Index reports a decrease, the Mayor may elect to decrease sewer rates. Full approval of the Council is required to decrease sewer rates. No decrease shall be made to sewer rates if the reduction in revenue results in a situation where estimated receipts from sewer sales are less than the budget, as set by the Mayor and department managers, proposed for the sewer department for the upcoming fiscal year.

(6) Any sewer rate increase less than 3% enacted automatically as a result of an increase in the Consumer Price Index does not require public notice, however the Mayor may elect to advertise the increase in the newspaper with the largest circulation in Jackson (Breathitt County).

(C) *Surcharge for overstrength waste.* A surcharge for higher than normal overstrength waste will be developed when required. This will be developed based on the limits set forth in §§ 50.001 through 50.064 of this chapter.

(Ord. 11591, passed 1-15-91; Am. Ord. 101596-A, passed 10-15-96; Am. Ord. 062608, passed 6-26-08)

Cross-reference:

Water bill rate structure and indexing of rates for customers with water and sewer service, see §§ 52.15 and 52.16

§ 50.077 USER CHARGE SYSTEM ADOPTED BY REFERENCE.

The “User Charge System” on file with the city and approved by the Kentucky Natural Resources and Environmental Protection Cabinet and by the United States Environmental Protection Agency, is hereby approved and adopted. Such “User Charge System” is incorporated herein by reference and made a part hereof as if copied in full herein. Such “User Charge System”, implemented by this subchapter, allocates the cost of operation, maintenance, and simple replacement costs outlined therein among all users in proportion to their wastewater loads. The city will meet the general regulatory requirements of EPA concerning the “User Charge System”, and more specifically:

(A) *Annual review.* The sewer user schedule set out in § 50.076(B) shall be reviewed annually. The wastewater contribution of sewer users and the total cost of operation and maintenance of the sewer system and sewer treatment facilities shall be reviewed, and if necessary, the rate schedule applicable to operation and maintenance shall be adjusted to assure that each sewer user pays a proportionate share of operation and maintenance costs and that sufficient funds are collected for such costs.

(B) *Annual notification.* Each user of the sewer system shall be notified annually as to the rate structure. Such notification shall be distributed to users with a regular monthly billing.
(Ord. 11591, passed 1-15-91; Am. Ord. 101596-A, passed 10-15-96)

§ 50.078 MULTIPLE USERS ON ONE METER.

Where two or more tenants or occupants (of different rental units) of property, including duplexes, apartment houses, mobile home parks, trailer parks, or other multi-unit premises, are served by a single water meter, the sewer rates and charges to each tenant or occupant shall be computed by dividing the number of gallons of water registered by such single meter by the number of customers being serviced through such meter and then applying the results thus obtained to the sewer rate schedules set out in §§ 50.075 and 50.076, to arrive the monthly bill for each tenant or occupant. Each tenant or occupant shall be separately billed unless the owner or operator of the property has agreed with the city to pay the total monthly sewer bill for such property. In no event shall the monthly bill applicable to each tenant or occupant be less than the minimum sewer rates stipulated in §§ 50.075 and 50.076 above.

(Ord. 11591, passed 1-15-91)

§ 50.079 ALL CUSTOMERS METERED; NO FREE SERVICE.

It shall be mandatory for all customers of the sewer system to be metered, and the schedule of rates herein prescribed shall be uniformly charged to all customers of said system, including all residential, commercial, and industrial establishments in any manner directly or indirectly connected with and served by said sewer system of the city. No one shall receive or be entitled to free sewer service or to any such service without paying the full rates herein specified, except as set out herein.

(Ord. 11591, passed 1-15-91)

§ 50.080 OWNERS AND OCCUPANTS JOINTLY LIABLE.

The rates and charges aforesaid shall be billed to the owners or occupants of the premises, and if the occupant of any premises is not also the owner, both the owner and the occupant shall be responsible for the payment of the sewer bill.

(Ord. 11591, passed 1-15-91)

§ 50.081 REVISION OF RATES TO MEET BOND REQUIREMENTS.

The foregoing rates and charges shall be revised from time to time as may be necessary in order that the city may comply with the covenants and undertakings securing any bonds of said city which may be outstanding from time to time and which by their terms are payable from the revenues of the municipal sewer system of said city.

(Ord. 11591, passed 1-15-91)

§ 50.082 BILLING; COLLECTION; PENALTY FOR DELINQUENT BILL.

The foregoing schedule of sewer rates shall be put into effect in the collection of all sewer bills rendered after the effective date of this subchapter. The rates and charges for sewer service shall be billed in the aggregate monthly on or about the first day of each month, and all bills for such service shall be considered due and payable ten days after the date of issue. If a bill is not paid within ten days after such date of issue, such bill shall be considered delinquent, and there shall be imposed a penalty on each bill not so paid, in an amount equal to 10% of the charges (other than sales tax) shown on the face amount of such delinquent bill. The city may serve a customer written notice of his delinquency and of the fact that such customer is entitled, upon written request, to a hearing on the question of termination of service. If such bill is not paid within ten days after the mailing of such notice, and if no hearing is requested, or if a hearing is requested and timely held, and such customer's delinquency is thereby established, the city may disconnect the water service of such customer without further notice. If water service is disconnected by the city by reason of delinquency in the payment of any sewer bill, reconnection of such service shall not be made until the owner or user pays all charges and penalties owed, plus the amount of \$20 as a disconnection and reconnection charge. If any deadline date falls on a Sunday or legal holiday, such deadline shall not expire until the next secular day thereafter.

(Ord. 11591, passed 1-15-91)

§ 50.083 REVENUE ACCOUNTS.

(A) The revenues collected, as a result of the user charges levied, shall be deposited in a separate non-lapsing fund known as the Operation, Maintenance and Replacement Fund.

(B) Fiscal year-end balances in the Operation, Maintenance, and Replacement Fund shall be used for no other purposes than those designated. Monies which have been transferred from other sources to meet temporary shortages in the Operation, Maintenance and Replacement Fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates for operation, maintenance and replacement. The user charge rate(s) shall be adjusted such that the transferred monies will be returned to their respective accounts within six months of the fiscal year in which the monies were borrowed.

(Ord. 11591, passed 1-15-91)

ADMINISTRATION AND ENFORCEMENT

§ 50.095 RIGHT OF ENTRY FOR PURPOSE OF INSPECTION; INDEMNIFICATION; EASEMENTS ON PRIVATE PROPERTY.

(A) The Superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter.

(B) While performing the necessary work on private properties referred to above, the Superintendent or fully authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 50.062(A).

(C) The Superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Ord. 11591, passed 1-15-91)

§ 50.999 PENALTY.

(A) Any user who is found to have violated an order of the City Council or who willfully or negligently failed to comply with any provision of this chapter, except § 50.007, and the orders, rules,

regulations and permits issued hereunder, shall be guilty of a misdemeanor and shall be fined not less than \$500 for each offense. Each day on which a violation shall occur or continue shall be deemed a separate offense.

(B) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation.
(Ord. 11690, passed 1-16-90)

CHAPTER 51: SOLID WASTE MANAGEMENT

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GENERAL PROVISIONS**§ 51.001 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGRICULTURAL USE. Operations for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on their tract.

AGRICULTURAL WASTE. Any non-hazardous waste resulting from the production and processing of on-the-farm agricultural products, including manures, prunings and crop residues.

APPROVED INCINERATOR. An incinerator which complies with all current regulations of the responsible local, state and federal air pollution control agencies.

BULKY WASTE. Non-putrescible solid wastes consisting of combustible and/or non-combustible waste materials from dwelling units, commercial, industrial, institutional or agricultural establishments which are either too large or too heavy to be safely and conveniently loaded into solid waste transportation vehicles.

CABINET. The Natural Resources and Environmental Protection Cabinet.

COLLECTION. Removal of solid waste from the designated pick-up location to the transfer vehicle. Acceptable collection practices shall consist of the following:

- (1) Door-to-door household collection; and/or
- (2) Direct access to a manned convenience center or transfer facility.

COMMERCIAL SOLID WASTE. Solid waste resulting from the operation of any commercial, industrial, institutional or agricultural establishment.

CONVENIENCE CENTER. A self-contained facility that is manned during operating hours for the collection and subsequent transportation of municipal solid wastes.

DEMOLITION and CONSTRUCTION WASTE. Material resulting from the construction or destruction of residential, industrial or commercial structures.

DIRECTOR. The Director of the Solid Waste Management Program of the city is the Mayor.

DISPOSAL. The discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment, be emitted into the air or be discharged into any water, including groundwaters.

DISPOSABLE SOLID WASTE CONTAINER. Disposable plastic or paper sacks with a capacity of 10 to 35 gallons specifically designed for storage of solid waste.

DWELLING UNIT. Any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used or are intended to be used for living, sleeping, cooking and eating.

HAZARDOUS WASTE. Any waste or combination of wastes which are determined by the cabinet because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of, or otherwise managed.

MULTI-FAMILY RESIDENTIAL UNIT. A housing facility containing more than one dwelling unit under one roof.

OCCUPANT. Any person who, alone or jointly or severally with others, shall be in actual possession of any dwelling unit or any other improved real property, either as an owner or as a tenant.

OPEN BURNING. Burning of any matter in such manner that the combustion resulting from burning are emitted directly into the outdoor atmosphere without passing through a stack or chimney.

OPEN DUMP. Any facility or site for the disposal of solid waste which does not have a valid permit issued by the cabinet and/or the Director does not meet the environmental performance standards for a sanitary landfill under regulations promulgated by the cabinet.

PERSON. An individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the state, or any interstate body.

PROCESSING. Incinerating, composting, baling, shredding, salvaging, compacting and other processes whereby solid waste containers are modified or solid waste quantity is reduced.

PUBLIC NUISANCE. Illegal waste disposal practices that include but are not limited to open burning, open dumps or littering which are deemed to be a nuisance under applicable law.

RESIDENTIAL DWELLING VISIT. A building or portion thereof, providing complete housekeeping facilities for one person or one family.

RESIDENTIAL SOLID WASTE. Solid waste resulting from the maintenance of dwelling units.

SANITARY LANDFILL. A permitted facility for the disposal of solid waste which complies with the “environmental performance standards” specified in 401 KAR 47:030.

SLUDGE. Any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant or any other such waste having similar characteristics and effects.

SOLID WASTE. Any garbage, litter, refuse sludge and other discarded material, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining byproducts, refuse and overburden) and agricultural operations and from community activities, but does not include solid or dissolved material in irrigation return flows or industrial discharges.

SOLID WASTE MANAGEMENT. The administration of solid waste activities: source reduction, collection, source separation, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a city solid waste management plan approved by the cabinet.

SOLID WASTE MANAGEMENT AREA or AREA. Any city so designated by the cabinet upon approval of the local solid waste management plan.

SOLID WASTE MANAGEMENT PLAN. The document submitted by a city as required under KRS 224.887 and approved by the cabinet.

SOLID WASTE SITE or FACILITY. Any place at which solid waste is managed, stored, treated, processed or disposed.

SOLID WASTE STORAGE/CONTAINER. Receptacle used by any person to store solid waste during the interval between solid waste generation and collection. A solid waste container is made out of plastic, vinyl or metal, ranging in size from about ten gallons to 42 cubic yards in size.

STORAGE. Keeping, maintaining or storing solid waste from the time of its production until the time of its collection.

TRANSFER. The placement of solid waste from smaller collection vehicles into larger vehicles for transportation to intermediate or final disposal facilities.

TRANSFER FACILITY. Any transportation related facility including loading docks, compaction equipment parking areas and other similar facilities where shipments of solid waste are held or transferred during the normal course of transportation.

TRANSPORTATION. The transporting of solid waste from the place of collection or processing to a solid waste processing facility or permitted solid waste disposal site.

UNIVERSAL COLLECTION. A municipal solid waste collection system which is established by ordinance and approved by the cabinet and requires access for each household or solid waste generator

in a city.

YARD WASTES. Grass clippings, leaves, tree trimmings.
(Ord. 111991, passed 11-19-91)

§ 51.002 STORAGE CONTAINERS REQUIRED.

The occupant or owner of every residential dwelling unit, agricultural, commercial or institutional and industrial establishment producing solid waste within the city shall provide sufficient and adequate containers for the storage of all solid waste except bulky waste and demolition and construction waste to serve each dwelling unit and/or establishment; and to maintain such solid waste containers in good repair at all times.

(Ord. 111991, passed 11-19-91) Penalty, see § 51.999

§ 51.003 MAINTENANCE OF SOLID WASTE CONTAINERS IN CLEAN, SANITARY CONDITION.

The occupant or owner of every residential dwelling unit, agricultural, commercial, business, institutional and industrial establishment shall place all solid waste to be collected in proper solid waste containers, and shall maintain such solid waste containers and the area surrounding them in a clean, neat and sanitary condition at all times. Solid waste shall be stored in a manner that will be kept free from insect and rodent infestation and will not create a fire hazard.

(Ord. 111991, passed 11-19-91)

§ 51.004 SPECIFICATIONS FOR RESIDENTIAL STORAGE CONTAINERS.

Residential solid waste shall be stored in storage containers of not less than ten gallons nor more than 35 gallons in capacity. Storage containers shall be leakproof, waterproof, and fitted with a fly-tight lid and shall be properly covered at all times, except when depositing waste therein or removing the contents thereof. The containers shall have handles, bails or other suitable lifting devices or features. Containers shall be of a type originally manufactured for residential solid waste, with tapered sides for easy emptying. They shall be of light weight and sturdy construction. The weight of any individual storage containers and contents shall not exceed 75 pounds. Galvanized metal containers, or rubber, fiberglass or vinyl containers, which do not become brittle in cold weather may be used. Disposable solid waste containers within suitable frames, wire bag holders or other storage containers may also be used for storage of residential solid waste, subject to approval by the Director.

(Ord. 111991, passed 11-19-91)

§ 51.005 SPECIFICATIONS FOR RESIDENTIAL, COMMERCIAL, INSTITUTIONAL AND INDUSTRIAL USE BULK STORAGE CONTAINERS.

All uses which generate more than a volume of two cubic yards (that is, approximately equivalent

to 500 pounds or ¼ ton or 400 gallons) of solid waste per week shall be required to provide bulk containers for storage as approved by the Director. The containers shall be waterproof, leakproof and shall be covered at all times except when depositing waste therein or removing the contents thereof; and shall meet all requirements as referenced in § 51.095.

(Ord. 111991, passed 11-19-91)

§ 51.006 AIRTIGHT CONTAINERS; REMOVAL OF DOOR.

No owner, occupant, tenant or lessee of any building or dwelling may leave outside the dwelling or building, in a place accessible particularly to children, any abandoned or unattended white goods (that is, icebox, refrigerator or other receptacle that has an airtight door) without first removing the door.

(Ord. 111991, passed 11-19-91) Penalty, see § 51.999

§ 51.007 STORAGE OF YARD WASTES.

Tree limbs less than four inches in diameter, lumber and brush shall be securely tied in bundles not larger than 48 inches long and 18 inches in diameter when not placed in storage containers. The weight of any individual bundle shall not exceed 75 pounds. Yard wastes shall be stored in containers so constructed and maintained as to prevent the dispersal of wastes placed therein upon the premises served, upon adjacent premises or upon adjacent public rights-of-way. The weight of any individual container and contents shall not exceed 75 pounds.

(Ord. 111991, passed 11-19-91)

§ 51.008 STORAGE CONTAINERS NOT IN COMPLIANCE.

Solid waste containers which do not meet the specifications as outlined in §§ 51.002 through 51.007 shall be considered waste and will be collected together with their contents and disposed of.

(Ord. 111991, passed 11-19-91)

§ 51.009 COST RECOVERY.

When the city must clean up and remove an open dump to insure protection of the public health and safety and when the responsible party can be identified, the Director shall require these persons to reimburse the city for the actual costs incurred. Recoverable costs include but are not limited to costs for site assessment and evaluation, labor, equipment, disposal and legal fees. Should other means of collection prove ineffective, the city may seek such reimbursement of funds 90 days following the completion of the cleanup. Such cost recovery should not apply to property owners who are the victim of illegal dumping of solid waste without their knowledge or beyond their reasonable control.

(Ord. 111991, passed 11-19-91)

§ 51.010 BONDS FOR OPERATION OF SOLID WASTE FACILITY.

Both a performance bond and a payment bond is required to operate a solid waste facility within the city. The amounts and types of bonds shall be determined by the Director.
(Ord. 111991, passed 11-19-91)

SOLID WASTE COLLECTION**§ 51.020 RESPONSIBILITY OF CITY.**

The city shall provide for the collection of all residential solid waste in the city.
(Ord. 111991, passed 11-19-91)

§ 51.021 UNIVERSAL COLLECTION.

A municipal solid waste collection system which is established by ordinance and approved by the cabinet and requires access for each household or solid waste generator in a city.
(Ord. 111991, passed 11-19-91)

§ 51.022 PLACEMENT OF WASTES FOR COLLECTION.

Tree limbs and yard wastes, as described in § 51.007, shall be placed at the curb, alley or the rear of the building for collection. Points of collection of solid waste shall be from the roadside or curbside within public rights-of-way or other locations near buildings, parking lots, and the like, on private property. In general, solid waste generated by residential or agricultural uses shall be placed along the roadside or curbside fronting the subject property not more than 12 hours before collection. All reusable storage containers shall be removed from the roadside or curbside by the generator within 12 hours after collection. Residential, agricultural, commercial, institutional and industrial uses required to provide bulk storage containers shall be located on private property in areas accessible to collection vehicles.
(Ord. 111991, passed 11-19-91)

§ 51.023 COLLECTION OF BULKY RUBBISH.

The Director shall establish the procedures for collecting bulky rubbish from residential units within the city. Bulky rubbish shall be collected upon request.
(Ord. 111991, passed 11-19-91)

§ 51.024 AUTHORITY OF COLLECTORS TO ENTER PRIVATE PROPERTY; ENTERING RESIDENTIAL BUILDING PROHIBITED.

Solid waste collectors, employed by the city or a solid waste collection agency operating under contract with the city, are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter. Solid waste collectors shall not enter dwelling units or other residential buildings for the purpose of collecting residential solid waste. Commercial solid waste may be removed from within commercial establishments upon written request of the owner and approval of the Director.

(Ord. 111991, passed 11-19-91)

§ 51.025 FREQUENCY OF COLLECTION.

All solid waste, other than bulky waste, shall be collected at least once weekly. Residential, agricultural, commercial, institutional and industrial uses, generating large quantities of solid waste, may be required to provide collection at more frequent intervals (that is, twice weekly or more) upon determination by the Director, as necessary for the protection of public health, safety and welfare.

(Ord. 111991, passed 11-19-91)

§ 51.026 OWNERSHIP OF SOLID WASTE.

All garbage and refuse placed in authorized storage containers and placed at the point of collection defined in § 51.022, shall become the property of the city or its duly authorized agent and no person shall be allowed to separate, carry off or dispose of the same without written permission of the Director.

(Ord. 111991, passed 11-19-91) Penalty, see § 51.999

§ 51.027 PROHIBITIONS RELATING TO SOLID WASTE CONTAINERS; RECEPTACLES.

(A) The following wastes may not be deposited in solid waste containers or receptacles:

- (1) Hazardous waste;
- (2) Liquid wastes;
- (3) Bulky wastes, major appliances, furniture;
- (4) Tires;
- (5) Construction and demolition wastes;
- (6) Dead animals;

(7) Any burning or smoldering materials or any other materials that would create a fire hazard;
or

(8) Batteries.

(B) No person may remove any item from a solid waste receptacle, climb on or into a container or receptacle or damage any container.

(Ord. 111991, passed 11-19-91) Penalty, see § 51.999

§ 51.028 COLLECTION VEHICLE SPECIFICATIONS.

All transportation vehicles shall be maintained in a safe, clear and sanitary condition, and shall be so constructed, maintained and operated as to prevent spillage of solid waste therefrom. All vehicles to be used for transportation of solid waste shall be constructed with watertight bodies and with covers which shall be an integral part of the vehicle or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever the vehicle is transporting solid waste, or, as an alternate, the entire bodies thereof shall be enclosed with only loading hoppers exposed. No solid waste shall be transported in the loading hoppers. They shall be cleaned as often as necessary to prevent a nuisance and insect breeding and shall be maintained in good repair.

(Ord. 111991, passed 11-19-91)

DISPOSAL OF SOLID WASTE

§ 51.040 OPEN BURNING.

Open burning of solid waste, hazardous waste or bulky waste is prohibited.

(Ord. 111991, passed 11-19-91) Penalty, see § 51.999

§ 51.041 OPEN DUMPING.

Open dumping of solid waste, including bulky waste, on all lands (that is, roadsides, hollows, rivers, streams, lakes, and the like) by any person is prohibited by KRS 224.835 and this chapter.

(Ord. 111991, passed 11-19-91) Penalty, see § 51.999

§ 51.042 DISPOSAL IN APPROVED SITES.

All solid waste, including bulky waste, shall be disposed of within a sanitary landfill having a

valid permit issued by the cabinet in compliance with KRS 224.830, 224.835 and this chapter.
(Ord. 111991, passed 11-19-91)

§ 51.043 HAZARDOUS WASTE DISPOSAL.

As defined within this chapter, hazardous waste will require special handling and shall be disposed of only in a manner authorized by state and/or federal regulations.

(Ord. 111991, passed 11-19-91) Penalty, see § 51.999

Cross-reference:

Loading or unloading of hazardous material; Mayor to be notified, see § 92.07

COLLECTION PERMITS

§ 51.055 PERMIT REQUIRED.

No person shall engage in the business of collection, transporting or processing of solid waste within the city without a permit secured from the Director. In the event any one person engages in the collection, transportation and processing of solid waste, or any combination thereof, there shall be required of said person only one permit hereunder.

(Ord. 111991, passed 11-19-91) Penalty, see § 51.999

§ 51.056 INSURANCE POLICY REQUIRED.

No such permit shall be issued until and unless the applicant therefore, in addition to all other requirements set forth, shall file and maintain with the Director evidence of a satisfactory public liability insurance policy including uninsured and underinsured motorists, covering all operations of such applicant pertaining to such business and all vehicles to be operated in the conduct thereof, in the amount of not less than \$100,000 for each person injured or killed, and in the amount of not less than \$300,000 in the event of injury or death of two or more persons in any single accident, and in the amount of not less than \$100,000 for damage to property. Such policy may be written to allow the first \$2,500 of liability for damage to property to be deductible. Worker's Compensation and employee's liability insurance to cover injury or death to any of the employees or workers in an amount not less than \$100,000. Should any such policy be cancelled, the Director shall be notified of such cancellation by the insurance carrier in writing not less than ten days prior to the effective date of such cancellation, and provisions to that effect shall be incorporated in such policy, which shall also place upon the company writing such policy the duty to give such notice.

(Ord. 111991, passed 11-19-91) Penalty, see § 51.999

§ 51.057 PERMIT APPLICATION.

Each applicant for any such permit shall state in his application the following:

(A) The nature of the permit desired, as to collect, process or transport solid waste or any combination thereof;

(B) Name and address of the applicant and whether a sole proprietorship, corporation or partnership with disclosure of the ownership interests;

(C) The number of employees and solid waste collection vehicles to be operated thereunder;

(D) Rates the applicant plans to charge customers;

(E) Location or locations of solid waste processing or disposal facilities to be used;

(F) Service routes and boundaries of collection area; and

(G) Other such information as required by the Director.

(Ord. 111991, passed 11-19-91)

§ 51.058 ISSUANCE OF PERMIT.

If the application shows that the applicant will collect, transport and process solid waste without hazard to the public health or damage to the environment in conformity with the laws of the state and this chapter, the Director may issue the permit authorized by the ordinance. The Director shall have the authority to limit the number of permits issued under safety and welfare of the residents to promote energy conservation, and to provide and disposal consistent with good solid waste management practices. The permit shall be issued for a period of one year, and each applicant shall pay a fee of \$500. If modifications can be made to the application regarding service, equipment or mode of operation so as to bring the application with the intent of this chapter, the Director shall notify the applicant in writing setting forth the modification to be made and the time in which it shall be done.

(Ord. 111991, passed 11-19-91)

§ 51.059 DENIAL OF APPLICATION.

If the applicant does not make the modifications pursuant to the notice in § 51.058 within the time limit specified therein or if the application does not clearly show that the collection, processing or transportation of solid waste will not create a public health hazard or be without harmful effects on the environment, the application shall be denied and the applicant notified by the Director, in writing, stating the reason for such denial. Nothing in this section shall prejudice the right of the applicant to reapply after the rejection of his application provided that all aspects of the reapplication comply with the provisions of this chapter. Nothing in this section shall prevent the denial of a permit should the

total number of annual permits have already been issued.
(Ord. 111991, passed 11-19-91)

§ 51.060 RENEWAL OF PERMIT; ANNUAL FEE.

The permit may be renewed upon payment of the fee as required herein if the business has not been modified, the collection vehicles meet the requirements of § 51.028 of this chapter, and the renewal is approved by the Director. If modifications have been made, the applicant shall reapply for a permit as set forth in §§ 51.082 and 51.083. No permits authorized by this chapter shall be transferable from company to company or person to person.

(Ord. 111991, passed 11-19-91) Penalty, see § 51.999

§ 51.061 INSPECTION OF PHASES OF SOLID WASTE MANAGEMENT.

In order to insure compliance with the laws of the state, this chapter, and the rules and regulations authorized herein, the Director is authorized to inspect all phases of solid waste management within the city. No inspection shall be made in any residential unit unless authorized by the occupant or by due process of law. In all instances where such inspections reveal violation of this chapter, the Director shall issue notice for each such violation stating therein the violation or violation found, the corrective measure to be taken, together with the time in which such corrections shall be made.

(Ord. 111991, passed 11-19-91) Penalty, see § 51.999

§ 51.062 PERMIT SUSPENSION.

In all cases, when the corrective measures have not been taken within the time specified, the Director shall suspend or revoke the permit or permits involved in the violations. However, in those cases where an extension of time will permit correction and there is no public health hazard created by the delay, one extension of time not to exceed the original time period may be given.

(Ord. 111991, passed 11-19-91)

§ 51.063 INJUNCTIVE RELIEF.

In the event a permit is revoked and the person continues to operate, the Director may request the action of a court of law to enjoin the acts and to enforce compliance with this chapter or any rule or regulation promulgated thereunder.

(Ord. 111991, passed 11-19-91)

§ 51.064 APPEAL PROCEDURE.

Any person who feels aggrieved by any notice of violation or order issued pursuant there to by the Director may within 30 days of the act for which redress is sought appeal directly to the city in

writing, setting forth in a concise statement the act being appealed and the grounds for its reversal.
(Ord. 111991, passed 11-19-91)

§ 51.065 DISPLAY OF PERMIT.

All motor vehicles operating under any permit required by this chapter shall display the number or numbers on each side in colors which contrast with that of the vehicle, such numbers to be clearly legible and not less than six inches high. A copy of said permit shall be maintained in the vehicle. Each permit for processing or disposal facilities shall be prominently displayed at the facility.
(Ord. 111991, passed 11-19-91)

FRANCHISING

§ 51.080 FRANCHISE REQUIRED FOR SOLID WASTE COLLECTION.

No person may engage in the business of solid waste collection unless he holds a franchise issued by the City Council authorizing him to collect, transport and dispose of solid wastes and describing the area for which the franchise is issued.
(Ord. 111991, passed 11-19-91) Penalty, see § 51.999

§ 51.081 AREA OF FRANCHISE.

The city shall determine the area for which a franchise is granted.
(Ord. 111991, passed 11-19-91)

§ 51.082 GRANTING OF FRANCHISE.

The city shall advertise and seek proposals to serve each franchise area. Applications for franchises shall be filed with the court on forms prescribed by the Director. The Board may grant a franchise only upon finding that the applicant will render prompt, efficient and continuing service to the area for which the franchise is granted and that the applicant has sufficient equipment and personnel to render service to all persons generating solid waste within the service area. A franchise shall be granted for a term of two years and may be renewable. No franchise shall be assignable.
(Ord. 111991, passed 11-19-91) Penalty, see § 51.999

§ 51.083 APPROVAL OF FEE.

The Director shall approve all fees charged by solid waste collectors.
(Ord. 111991, passed 11-19-91)

§ 51.084 TERMINATION OF FRANCHISE.

A solid waste collector granted a franchise under this chapter shall give 90 days written notice to the city before abandoning the franchise. The city may terminate or suspend all or any portion of a franchise for failure to comply with any provision of this chapter, failure to render prompt and effective service or failure to comply with authorized fee schedules.
(Ord. 111991, passed 11-19-91)

RULES AND REGULATIONS

§ 51.095 ESTABLISHMENT AND ENFORCEMENT.

The Director shall make, amend, revoke and enforce reasonable rules and regulations, governing, but not limited to:

(A) Preparation, drainage and wrapping of garbage deposited in solid waste containers;

(B) Specifications for solid waste containers, including the type, composition, equipment, size and shape thereof;

(C) Identification of solid waste containers and of the covers thereof, and of equipment thereto appertaining, if any;

(D) Weight limitations on the combined weight of solid waste containers and the content thereof and weight and size limitations on bundles of solid waste too large for solid waste containers;

(E) Storage of solid waste in solid waste containers;

(F) Sanitation, maintenance and replacement of solid waste containers;

(G) Schedules of and routes for collection and transportation of solid waste;

(H) Collection points of solid waste containers;

(I) Collection, transportation, processing and disposal of solid waste;

(J) Processing facilities and fees for the use thereof;

(K) Disposal facilities and fees for the use thereof;

(L) Records of quantity and type of wastes received at processing and/or disposal facilities;

(M) Handling of special wastes such as sludges, ashes, agriculture, construction, bulky items, tires, automobiles, oils, greases, and the like; and

(N) Reporting requirements of permittees.

(Ord. 111991, passed 11-19-91)

§ 51.096 PROHIBITED PRACTICES.

It shall be unlawful for any person to:

(A) Dispose of garbage, refuse, rubbish or debris by dumping same on any premises in the city with or without the consent of the owner of the premises;

(B) Dump or permit the dumping of garbage, refuse, rubbish and debris on any property within the city;

(C) Deposit solid waste in any solid waste container other than his own, without the written consent of the owner of such container and/or with the intent of avoiding payment of the service charge hereinafter provided for solid waste collection and disposal;

(D) Fail to have solid waste collected as provided in this chapter;

(E) Interfere in any manner with solid waste collection and transportation equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors shall be those of the city or those of a solid waste collection agency operating under contract with the city;

(F) Burn solid waste unless an approved incinerator is provided or unless a variance has been obtained from the appropriate air pollution control agency;

(G) Dispose of dead animals in any container to be collected by the city;

(H) Own or operate an open dump;

(I) Engage in the feeding of food waste to animals for commercial purposes;

(J) Dispose of solid waste at any facility or location which is not approved by the city and permitted by the Kentucky Department for Environmental Protection;

(K) Engage in the business of collecting, transporting, processing or disposing of solid waste within the geographic boundaries of the city without a permit, contract or franchise agreement from

the city, operate under an expired permit or operate after a permit has been suspended or revoked or contract or franchise agreement canceled; and

(L) Violate any section of this chapter or any other rule or regulation promulgated under the authority of § 51.095.

(Ord. 111991, passed 11-19-91) Penalty, see § 51.999

SERVICE CHARGES

§ 51.110 FEES FOR EACH DWELLING UNIT; COMMERCIAL ESTABLISHMENT.

The Director shall establish service charges or fees for each dwelling unit and each commercial establishment for solid waste collection and disposal as are necessary to meet all costs of operation and maintaining the solid waste management system. All such fees, including subsequent revisions thereof, shall be paid by the resident or owner or record of the property served and shall be paid to the city.

(Ord. 111991, passed 11-19-91)

§ 51.111 DELINQUENT BILLS.

All unpaid fees shall become delinquent if payment is not received within 30 days of the notice due and shall result in the termination of all utility services provided by the city until payment is received. Delinquent bills shall bear interest at 12% per annum until paid. The city or its designee may enforce collection of delinquent bills by bringing proper legal action against the owner or occupant of any dwelling unit or owner of any commercial establishment to recover any sums due plus a reasonable attorney's fee, court costs and any other costs involved in such collection action.

(Ord. 111991, passed 11-19-91)

§ 51.112 UNCOLLECTED FEES.

All uncollected fees, after judgment, shall be placed on record in the locality where the property is located, as any other judgment lien, and shall be released when paid.

(Ord. 111991, passed 11-19-91)

§ 51.113 UNOCCUPIED RESIDENCES AND BUILDINGS.

The service and service charge shall be terminated upon presentation of satisfactory proof to the Director that any such dwelling unit or establishment is unoccupied and shall be commenced upon renewed occupancy thereof.

(Ord. 111991, passed 11-19-91)

*PUBLIC NUISANCE***§ 51.125 ABATEMENT PROCEDURE.**

For abatement procedures for public nuisances, see § 92.04.

§ 51.999 PENALTY.

An person violating any of the provisions of this chapter or any lawful rules or regulations promulgated pursuant thereto, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$25 nor more than \$500, provided that each day's violation thereof shall be a separate offense for the purpose hereof. Violators of this chapter may be issued a citation by any authorized police officer.

(Ord. 111991, passed 11-19-91)

CHAPTER 52: WATER

Section

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GENERAL PROVISIONS**§ 52.01 REMOVAL OF WATER FROM FIRE HYDRANTS.**

(A) It shall be unlawful for any person or persons to take city water from the fire hydrants of the city, for private purposes, without having first obtained express permission so to do from authorized personnel empowered to grant said permission.

(B) Any person found to be violating any provision of this section shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(Ord. 711772, passed 7-11-77) Penalty, see § 52.99

RATES AND CHARGES**§ 52.15 MONTHLY WATER RATES.**

The schedule of monthly water rates for services rendered by the municipal waterworks and water distribution system will be adopted by the City Council, as amended from time to time, and is adopted by reference herein as though set out in full.

(Ord. 061815A, passed 6-19-15)

§ 52.16 INDEXING OF WATER RATES.

(A) Rates for water services are tied to the Consumer Price Index as published by the Federal Reserve Bank of Cleveland, Ohio. Rates will be adjusted upward annually 3% by the Mayor.

(B) The increase in rates, regardless of the Consumer Price Index increase, may not exceed 3% in any one year without the full vote of the City Council.

(C) Increases less than 3% require no further approval or authorization to be enacted. The Mayor may authorize the Water Clerk or City Accountant to administer the rate increase after receipt of the Consumer Price Index for the previous federal fiscal year. Any adjustment to be made shall be levied in July of each year.

(D) If annual expenses of the Jackson water department indicate more than a 3% increase from the previous fiscal year, or, if the Consumer Price Index reports an increase greater than 3%, the Mayor may propose a rate increase exceeding 3%, the Mayor may propose a rate increase exceeding 3% to the Council. To raise the water rates more than 3%, the higher increase must have the full approval of the Council.

(E) If the Consumer Price Index reports a decrease, the Mayor may elect to decrease water rates. Full approval of the Council is required to decrease water rates. No decrease shall be made to water rates if the reduction in revenue results in a situation where estimated receipts from water sales are less than the budget, as set by the Mayor and department managers, proposed for the water department for the upcoming fiscal year.

(F) Any water rate increase less than 3% enacted automatically as a result of an increase in the Consumer Price Index does not require public notice, however the Mayor may elect to advertise the increase in the newspaper with the largest circulation in Jackson (Breathitt County).

(Ord. 122099, passed 12-20-99; Am. Ord. 062608, passed 6-26-08; Am. Ord. --, passed 4-20-12)

Cross-reference:

See § 50.076 for sewer bill rate structure and indexing of rates for customers with water and sewer service

§ 52.17 RESERVED.**§ 52.18 RESERVED.****§ 52.19 RESERVED.**

§ 52.20 PAYMENT OF UTILITY BILLS.

The rate or charges as aforesaid shall be billed monthly in the case of metered users and the water bill, sewer bill, and garbage bill (if applicable) shall be rendered at the same time and on the same bill forms, but as separate charges, and all bills for such service shall be due and payable when rendered. If not paid by the tenth of the month following the date rendered, the bill shall be delinquent, and a delay penalty equal to 10% of the face amount of the bill shall become due and payable; provided, however, that if the tenth day should fall upon a Sunday or legal holiday, then the face amount of the bill may be paid on the next secular day which is not a holiday. If the entire bill for water, sewer (if applicable), and garbage (if applicable), together with the penalty of 10% thereof, shall remain unpaid for a period of 60 days after with the date the penalty is added, then pursuant to authority of KRS 96.934, the water service connection to the premises is subject to be disconnected, whether the customer's water service bill has been paid or not. If any such delinquent customer shall, thereafter, desire reconnection, a charge in the sum of \$50 is fixed to cover the expenses thereof; and prior to such reconnection, the customer shall be required to pay the delinquent bill, the 10% penalty, and the charge for reconnection. Whether or not any premises are disconnected because of such delinquency, the city attorney is authorized to enforce and collect the amount of any bills remaining delinquent for 60 days after penalty is added (including the penalty and court costs), by suit in any court of competent jurisdiction.
(Ord. 122099, passed 12-20-99)

§ 52.21 WATER CONNECTION CHARGE.

(A) In areas where water distribution facilities exist, the city will provide and install at a basic cost of \$400, a standard 5/8- by 3/4-inch water meter, copper setter, and up to 50 feet of water line, to any customer submitting an application for water service in such form as may be prescribed from time to time, and agreeing to use water service and pay the prevailing rates for not less than one year, and complying with such deposit or other security provision as may be prescribed. If more than 50 feet of additional line is required to provide water service, the city may elect to establish the service at the minimum cost of \$400 plus the cost of the extra line and labor.

(B) If a water customer desires a meter larger than the standard 5/8- by 3/4-inch water meter, or, if the Superintendent of the Jackson water department determines that a meter larger than 5/8 by 3/4 inches is needed, the city will furnish and install the meter. The cost to the customer will be \$400, plus the cost of the meter less \$70, and any and all additional fittings, setters, boxes or vaults, that are necessary to establish service with the appropriately sized meter.
(Ord. 122099, passed 12-20-99)

§ 52.22 WATER BILL ADJUSTMENTS.

(A) All water leaks which may develop on the customer's side of the water service connection are the responsibility of the water customer. If a customer discovers a water leak he/she may petition the Superintendent or the water clerk for an adjustment to the sewer portion of the utility bill. No adjustment will be made to the water portion of the utility bill.

(B) Adjustments may be entertained only after the customer contracts for the leak to be repaired and an invoice offering sufficient proof that the leak has been repaired is submitted to the water clerk. The sewer portion of the utility bill will be adjusted by averaging the water usage for a previous 12 month period and comparing that volume with the volume indicated for the month in which the customer experienced the water line leak. The volume of water normally used by the customer as reflected by the 12 month average is the volume on which the amended sewer bill will be calculated.

(C) Customers are allowed one utility bill adjustment per three year period. No additional petitions for adjustments will be entertained until a three year period from the last granted adjustment has elapsed. (Ord. 122099, passed 12-20-99)

WATER SHORTAGES

§ 52.30 PURPOSE.

The purpose of this subchapter is to provide for the declaration of official phases of water supply shortage situations and the implementation of voluntary and mandatory water conservation measures throughout the city in the event a shortage is declared. Nothing in this subchapter shall be construed to interfere with common law riparian or statutory water rights. (Ord. 8888, passed 8-8-88)

§ 52.31 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADVISORY. Conditions exist which indicate the potential for serious water supply shortages.

ALERT. Raw water supplies (that is, stream flow, reservoir levels or groundwater levels) are consistently below seasonal averages, and if they continue to decline, may not be adequate to meet normal needs.

ALLOTMENT. The maximum quantity of water allowed for each customer over any applicable period as established in the water rationing provisions of this subchapter.

ANY WATER. Any type of water, including fresh water, brackish water, wastewater, or reclaimed water.

BRACKISH WATER. Water containing more than 1000 parts per million of dissolved salts.

CUSTOMER. Any person using water for any purpose from the city's water distribution system and for which either a regular charge is made or, in the case of bulk sales, a cash charge is made at the site of delivery.

EMERGENCY. Water supplies are below the level necessary to meet normal needs and serious shortages exist in the area.

EXCESS USE. The usage of water by a water customer in excess of the water allotment provided under the water rationing provisions of this subchapter for that customer, over any applicable period.

FRESH WATER. Water withdrawn from surface or groundwater which has not been previously used, other than brackish water.

NON-RESIDENTIAL CUSTOMER. Commercial, industrial, institutional, public and all other such users, with the exception of hospitals and health care facilities.

RATIONING. Procedures established to provide for the equitable distribution of critically-limited water supplies, in order to balance demand and limited available supplies, and to assure that sufficient water is available to preserve public health and safety.

RECLAIMED WATER. Wastewater which has been treated to allow reuse.

RESIDENTIAL CUSTOMER. Any customer who receives water service for a single- or multi-family dwelling unit. ***RESIDENTIAL CUSTOMER*** does not include educational or other institutions, hotels, motels, or similar commercial establishments.

SERVICE INTERRUPTION. The temporary suspension of water supply, or reduction of pressure below that required for adequate supply, to any customer, portion of a water supply, or entire system.

WASTE OF WATER. Includes, but is not limited to permitting water to escape down a gutter, ditch, or other surface drain, or failure to repair a controllable leak of water due to defective plumbing.

WASTEWATER. Water which has been previously used for industrial, municipal, domestic, or other purpose, and has not been returned to the surface or groundwater source.

WATER. Water available to the city for treatment by virtue of its water rights or withdrawal permit or any treated water introduced by the city into its water distribution system, including water offered for sale.

WATER USE CLASSES. Those classes as established by § 52.32.
(Ord. 8888, passed 8-8-88)

§ 52.32 WATER USE CLASSES.

Water use classes shall be established as follows:

(A) Class 1: Essential Water Uses.

(1) Domestic use. Water necessary to sustain human life and the lives of domestic pets, and to maintain minimum standards of hygiene and sanitation.

(2) Health care facilities. Patient care and rehabilitation.

(3) Public use.

(a) Firefighting.

(b) Health and public protection purposes, if specifically approved by health officials and the municipal governing body.

(B) Class 2: Socially or Economically Important Uses of Water.

(1) All domestic uses other than those included in Classes 1 and 3. Home water use including kitchen, bathroom and laundry use.

(2) Outdoor non-commercial watering (public or private).

(a) Agricultural irrigation for the production of food and fiber or the maintenance of livestock.

(b) Watering by commercial nurseries at a minimum level necessary to maintain stock, to the extent that sources of water other than fresh water are not available or feasible to use.

(c) Water use by arboretums and public gardens of national, state, or regional significance where necessary to preserve specimens, to the extent that sources of water other than fresh water are not available or feasible to use.

(d) Use of fresh water at a minimum rate necessary to implement revegetation following earth moving, where such revegetation is required pursuant to an erosion and sedimentation control plan adopted pursuant to law or regulation, to the extent that sources of water other than fresh water are not available or feasible to use.

(e) Watering of golf course greens.

(3) Filling and operation of swimming pools.

(a) Residential pools which serve more than 25 dwelling units.

(b) Pools used by health care facilities for patient care and rehabilitation.

(c) Municipal pools.

(4) Washing of motor vehicles. Commercial car and truck washes, unrestricted hours of operation.

(5) Commercial laundromats. Unrestricted hours of operation.

(6) Restaurants, clubs and eating places. Unrestricted hours of operation.

(7) Air conditioning.

(a) Refilling for startup at the beginning of the cooling season.

(b) Make-up of water during the cooling season.

(c) Refilling specifically approved by health officials and the municipal governing body, where the system has been drained for health protection or repair purposes.

(8) Schools, churches, motels/hotels and similar commercial establishments. Unrestricted operation.

(C) Class 3: Non-Essential Uses of Water.

(1) Ornamental purposes. Fountains, reflecting pools and artificial waterfalls.

(2) Outdoor non-commercial watering (public or private).

(a) Gardens, lawns, parks, golf courses (except greens), playing fields and other recreational areas.

(b) Exceptions.

1. Agricultural irrigation for the production of food and fiber or the maintenance of livestock.
 2. Watering by commercial nurseries at a minimum level necessary to maintain stock, to the extent that sources of water other than fresh water are not available or feasible to use.
 3. Water use by arboretums and public gardens of national, state, or regional significance where necessary to preserve specimens, to the extent that sources of water other than fresh water are not available or feasible to use.
 4. Use of fresh water at a minimum rate necessary to implement revegetation following earth moving, where such revegetation is required pursuant to an erosion and sedimentation control plan adopted pursuant to law or regulation, to the extent that sources of water other than fresh water are not available or feasible to use.
- (3) Filling and operation of swimming pools. Exceptions:
- (a) Residential pools which serve more than 25 dwelling units.
 - (b) Pools used by health care facilities for patient care and rehabilitation.
 - (c) Municipal pools.
- (4) Washing of motor vehicles.
- (a) Automobiles, trucks, boats and trailers.
 - (b) Exceptions: Commercial car and truck washes.
- (5) Serving water in restaurants, clubs, or eating places. Exceptions: Specific request by a customer.
- (6) Fire hydrants.
- (a) Any purpose, including use of sprinkler caps and testing fire apparatus and for Fire Department drills.
 - (b) Exceptions:
 1. Firefighting.
 2. Health protection purposes, if specifically approved by the health officials of the municipality.
 3. Certain testing and drills by the Fire Department, if in the interest of public safety and is approved by the municipal governing body.

(7) Flushing of sewers and hydrants. Exceptions: As needed to ensure public health and safety, and approved by health officials and the municipal governing body.

(8) Air conditioning.

(a) Refilling cooling towers after draining.

(b) Exceptions:

1. Refilling for startup at the beginning of the cooling season;

2. Make-up of water during the cooling season;

3. Refilling specifically approved by health officials and the municipal governing body, where the system has been drained for health protection or repair purposes.

(Ord. 8888, passed 8-8-88)

§ 52.33 DECLARATION OF WATER SHORTAGE ADVISORY.

Whenever the governing body of the city finds that a potential shortage of water supply is indicated, it shall be empowered to declare by resolution that a water shortage advisory exists, and that the Superintendent of Utilities/Public Works shall, on a daily basis, monitor the supply and demands upon that supply. In addition, the Mayor (or his/her agent) is authorized to call upon all water customers to employ voluntary water conservation measures to limit water use (especially Class 3 uses) and eliminate the waste of water. This resolution shall be published in the official city newspaper, and may be publicized through the general news media or any other appropriate method for making such resolutions public.

(Ord. 8888, passed 8-8-88)

§ 52.34 DECLARATION OF WATER SHORTAGE ALERT.

Whenever the governing body of the city finds raw water supplies (that is, stream flow, reservoir levels or groundwater levels) to be consistently below seasonal averages, and if they continue to decline and may not be adequate to meet normal needs, it shall be empowered to declare by resolution that a water shortage alert exists. The city shall continue to encourage voluntary water conservation measures as defined under the advisory declaration in § 52.33, and further shall impose a ban on all Class 3 water uses for the duration of the shortage until it is declared to have ended by resolution of the governing body. Declaration of these resolutions shall follow the guidelines for declaration in § 52.33 of this subchapter.

(Ord. 8888, passed 8-8-88)

§ 52.35 DECLARATION OF WATER SHORTAGE EMERGENCY.

Whenever the governing body of the city finds that raw water supplies are below the level necessary to meet normal needs and that serious shortages exist, it shall be empowered to declare by resolution that a water shortage emergency exists. Class 1, Essential Uses shall be identified, in specific, as targets for voluntary conservation initiatives. Also, all Class 2, Socially or Economically Important Uses shall be banned in addition to the Class 3, Non-Essential Uses. These restrictions shall be considered ongoing until the emergency is declared ended by resolution of the governing body. Declaration of these resolutions shall follow the guidelines for declaration in § 52.33 of this subchapter.

(Ord. 8888, passed 8-8-88)

§ 52.36 DECLARATION OF RATIONING.

Whenever the governing body of the city finds a need to provide for the equitable distribution of critically-limited water supplies, in order to balance demand and limited available supplies, and to assure that sufficient water is available to preserve public health and safety, it shall be empowered to declare by resolution the adoption of mandatory rationing.

(Ord. 8888, passed 8-8-88)

§ 52.37 OBJECTIVES OF RATIONING.

(A) It is imperative that water customers achieve an immediate further reduction in water use in order to extend existing water supplies and, at the same time, assure that sufficient water is available to preserve the public health and sanitation and to provide fire protection service.

(B) The immediate further reduction in water usage is another step along a continuum of responses to the present water supply shortage. Should shortages continue, further reductions in usage may be required. It must be emphasized that the additional usage reduction in the rationed area is a valid and attainable goal reflective of the conditions which currently exist.

(C) The plan provides for equitable reductions in water usage and for equal sacrifice on the part of each water customer. The success of this subchapter depends on the cooperation of all water customers in the emergency area.

(Ord. 8888, passed 8-8-88)

§ 52.38 WATER USE RATIONING FOR RESIDENTIAL USERS.

(A) Metered residential water customers and allotments.

(1) The number of permanent residents in each dwelling unit (household) will determine the amount of water that each household will be allowed.

(2) Each dwelling unit (household) shall be allotted 40 gallons per day for each resident of the household. Households with only one permanent resident will have a daily allotment of 55 gallons.

(3) Residential water customers are required to provide city and utility personnel with reasonable access to read meters as necessary to this rationing declaration. Where access is not readily available, all reasonable efforts to contact customers in order to arrange for access to read meters shall be made. In the event a water customer does not allow entry to read the meter after reasonable efforts to arrange for such access, the dwelling unit (household) allotment will be reduced to 55 gallons per day.

(4) (a) Where the residential water allotment, provided under this section would create an extraordinary hardship, as in the case of special health-related requirements, the water customer may apply to the city for an exemption or variance from these requirements. If it is found that the allotment provided in this section would impose an extraordinary hardship, a revised allotment for the particular customer may be established.

(b) Any person aggrieved by a decision relating to such an exemption or variance rendered by a public utility or municipal corporation rendering water service beyond its corporate limits, may file a complaint with the city's governing body in accordance with the city's normal administrative procedures.

(c) In the case of rural water districts, appeals should be filed with the state's Public Service Commission.

(B) Non-metered residential water customers and allotments.

(1) In order to effectively implement and monitor the residential water conservation effort, a water allotment shall be established for the entire water system based on 40 gallons per day per capita served or an allocation established by the City Council based on the individual drought period.

(2) The city and the utility will establish a communication system with the customers through public media to inform them of the requirements of the water rationing provisions of this subchapter, possible conservation measures that customers may employ, the system allotment, and a regularly scheduled report of whether the usage was within the allotment.

(C) Metered and non-metered residential customers of the same water supply system. Where a water supply system serves both metered and non-metered residential customers, the allotments and procedures provided under both divisions (A) and (B) shall be applied, as appropriate.

(Ord. 8888, passed 8-8-88)

§ 52.39 WATER USE RATIONING FOR NON-RESIDENTIAL WATER USERS.

(A) Non-residential customers include commercial, industrial, institutional, public and all other such users, with the exception of hospitals and health care facilities.

(B) Non-residential water customers shall further reduce their water usage to 40 gallons per person per day or to an allocation established by the City Council based on the individual drought period.

(C) It is the primary responsibility of each non-residential water customer to meet its mandated water use reduction goal in whatever manner possible.

(D) The city will establish a water allotment for each non-residential water customer, based upon a required further reduction of water usage from the rate of water used by the customer in effect on a date determined by City Council, or the last recorded use level if no meter readings record the rate of the customer's use on a date specified by City Council.

(E) Each non-residential water user shall provide access to city personnel for purposes of meter reading and monitoring of compliance with this subchapter. All reasonable efforts will be made to contact customers to arrange for access.

(F) (1) If the mandated further reduction in water usage cannot be obtained without imposing extraordinary hardship which threatens health and safety, the non-residential customer may apply to the city for a variance. For the purposes of this section, *EXTRAORDINARY HARDSHIP* means a permanent damage to property or economic loss which is substantially more severe than the sacrifices borne by other water users subject to this water rationing subchapter. If the further reduction would cause an extraordinary hardship or threaten health or safety, a variance may be granted and a revised water use reduction requirement for the particular customer may be established.

(2) Any person aggrieved by a decision relating to such a variance rendered by a public utility or municipal corporation rendering water service beyond its corporate limits may file a complaint with the state's Public Service Commission in accordance with established procedures.

(3) In the case of rural water districts, appeals should be filed with the state's Public Service Commission.

(G) The city will provide each non-residential customer with suggested means to reduce usage levels.

(Ord. 8888, passed 8-8-88)

§ 52.40 WATER USE RATIONING FOR HOSPITALS AND HEALTH CARE FACILITIES.

(A) Hospitals and health care facilities shall comply with all restrictions imposed on residential and non-residential water customers as may be applicable to each individual institution, to the extent compliance will not endanger the health of the patients or residents of the institution.

(B) Each hospital or health care facility shall survey its water usage patterns and requirements and implement such additional conservation measures as may be possible without endangering the health of its patients or residents to achieve a further reduction in the institution's water usage.

(C) The city will provide each hospital and health care facility with suggested means to reduce usage levels.

(Ord. 8888, passed 8-8-88)

§ 52.41 ENFORCEMENT OF WATER RATIONING.

(A) The city or its water utility will have primary responsibility for monitoring of compliance with the water rationing ordinance.

(B) The following provisions shall govern the implementation of temporary service interruptions:

(1) In order to effectuate compliance with this subchapter, the city is hereby authorized and required to plan and implement temporary service interruptions to all or part of its water supply system, as may be deemed appropriate, when any and/or all of the following conditions are determined to exist:

(a) The mandated reduction in system-wide usage has not been achieved; and/or

(b) The mandated reduction in system-wide water usage has been achieved, but has failed to have a significant impact in extending limited water supplies; and/or

(c) Temporary service interruptions are necessary in order to further extend limited and/or dwindling water supplies.

(2) In the event it is determined that temporary service interruptions are necessary, the city shall notify its customers through the public media (newspapers, radio, and television), at least one day prior to the temporary service interruptions, that a planned, temporary service interruption is to be imposed. Such notice shall:

(a) State the day or days when the planned, temporary service interruptions will occur;

(b) State the time(s) when such planned, temporary service interruptions will commence, and the time(s) such interruptions will cease;

(c) State whether the planned, temporary service interruptions are to be imposed on the entire system, or part thereof, and, if only part(s) of the system will experience planned, temporary service interruptions, identify geographic boundaries within which such interruptions will occur; and

(d) Advise all customers within the areas affected by planned, temporary service interruptions how to treat any water received from the system, for human consumption, during the period(s) of such interruptions and for such additional time as may be necessary until full pressure is restored to the system.

(3) If a planned, temporary service interruption is imposed as authorized and required by this subchapter, it must provide for the continued delivery of water to health care facilities within the area(s) affected by such interruptions, by means of any adequate, alternative delivery measures that may be necessary.

(4) If a planned, temporary service interruption is implemented, it must make provision, by any means possible, for the continued delivery of such water as may be necessary for the proper operation of sewage collection, treatment, and disposal systems and facilities.

(C) Any residential or non-residential water customer who exceeds the allotments established pursuant to this water rationing will be subject to the following excess-use charges.

(1) Excess-use charges will be collected based on the amount by which a customer's use exceeds the water allotments established pursuant to the local water rationing declaration, computed in accordance with the following schedule:

<i>Excess Usage Per Month</i>	<i>Charge for Excess</i>
First 2,000 gallons or portion thereof	\$7 per 1,000 gallons or portion thereof
Each 1,000 gallons, or portion thereof, thereafter	\$15.00

(2) Any monies collected through excess-use charges shall not be accounted for as income, but shall be placed in a reserve account that is dedicated to addressing water shortage problems and water conservation initiatives.

(D) In addition to the excess-use charge, non-compliance with the water rationing provisions of this subchapter will result in the following:

(1) For the first excess use, a warning of possible discontinuation shall be issued to the customer.

(2) For the second or subsequent excess use, service to the customer may be interrupted or shut off for a period not to exceed 48 hours, or if the customer provides access, a flow restrictor may be installed in the customer's service line for the duration of the emergency. The cost incurred to interrupt or shut off and reinstate service, or to install and remove a flow restrictor, shall be assessed to the water customer.

(E) Meter reading schedules are authorized to be altered to assure adequate monitoring of compliance with this subchapter.

(F) Any customer or other person aggrieved by a decision or action imposing an excess-use charge or other remedy for non-compliance with the requirements of this subchapter may proceed in accordance with the following provisions:

(1) The city shall adopt procedures which provide an opportunity for the customer or aggrieved party to rebut the finding of a violation, or provide evidence of circumstances beyond the customer's control which resulted in the violation. A record of evidence regarding disputed violations shall be kept, and a written notice of the city's final decision and action in such cases shall be provided to the customer or aggrieved party.

(2) Any person aggrieved by the final decision or action of a public utility or municipal corporation may file a complaint with the Public Service Commission in accordance with established procedures.

(Ord. 8888, passed 8-8-88)

§ 52.42 SHORTAGE WATER RATES.

Upon the declaration of a water supply shortage as provided in §§ 52.33 through 52.36, the governing body of the city shall have the power to adopt shortage water rates by ordinance designed to conserve water supplies. Such rates may provide for, but not be limited to:

(A) Higher charges per unit for increasing usage (increasing block rates);

(B) Uniform charges for water usage per unit of use (uniform unit rate);

(C) Extra charges for use in excess of a specified level (excess demand surcharge); or

(D) Discounts for conserving water beyond specified levels.

(Ord. 8888, passed 8-8-88)

§ 52.43 REGULATIONS MAY BE PROMULGATED.

During the effective period of any water supply shortage as provided for in §§ 52.33 through 52.36, the Mayor or Superintendent of Utilities/Public Works is empowered to promulgate such regulations as may be necessary to carry out the provisions of this subchapter, any water supply shortage resolution, or water shortage rate ordinance. Such regulations shall be subject to the approval of the governing body at its next regular or emergency meeting.

(Ord. 8888, passed 8-8-88)

§ 52.44 VIOLATIONS.

Any person who violates the provisions of this subchapter, who fails to carry out the duties and responsibilities imposed by this subchapter, or who impedes or interferes with any action undertaken or ordered pursuant to this subchapter shall be subject to the following penalties.

(A) If the Mayor, Superintendent of Utilities/Public Works, or other city official or officials charged with implementation and enforcement of this subchapter or a water supply shortage resolution

learns of any violation of any water use restriction imposed pursuant to this subchapter, a written notice of the violation shall be affixed to the property where the violation occurred and mailed to the customer of record and to any other person known to the city who is responsible for the violation or its correction. The notice shall describe the violation and order that it be corrected, cured, or abated immediately or within such specified time as the city determines is reasonable under the circumstances. If the order is not complied with, the city may terminate water service to the customer subject to the following procedures.

(1) The city shall give the customer notice by mail that, due to the violation, water services will be discontinued within a specified time and that the customer will have the opportunity to appeal the termination by requesting a hearing scheduled before the city governing body or a city official designated as a hearing officer by the governing body;

(2) If such a hearing is requested by the customer charged with the violation, he or she shall be given a full opportunity to be heard before termination is ordered; and

(3) The governing body or hearing officer shall make findings of fact and order whether service should continue or be terminated.

(B) A fee of \$50 shall be paid for the reconnection of any water service terminated pursuant to division (A) of this section. In the event of subsequent violations, the reconnection fee shall be \$200 for the second violation and \$300 for each additional violation.

(C) Any customer may also be charged with violation of this subchapter and prosecuted in District Court.

(Ord. 8888, passed 8-8-88)

CROSS-CONNECTION CONTROL

§ 52.50 GENERAL POLICY.

(A) The purpose of this section is:

(1) To protect the public potable water by isolating within the customer's internal distribution system or the customer's private water system such contaminants or pollutants that could backflow into the public water system; and

(2) To promote the elimination or control of existing cross connections, actual or potential, between the customer's in-plant potable water system and nonpotable water systems, plumbing fixtures, and industrial piping systems; and

(3) To provide for the maintenance of a continuing program of cross-connection control that will systematically and effectively prevent the contamination or pollution of all potable water systems.

(B) The Jackson water department and the public health department shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgement of the superintendent of the Jackson water department or the public health official, an approved backflow-prevention assembly is required (at the customer's water service connection; or, within the customer's private water system) for the safety of the water system, the Superintendent or his/her designated agent shall give notice in writing to said customer to install such an approved backflow-prevention assembly at specific location(s) on his/her premises. The customer shall immediately install such approved assembly at his/her own expense; and, failure, refusal, or inability on the part of the customer to install, have tested, and maintain said assembly shall constitute grounds for discontinuing water service to the premises until such requirements have been satisfactorily met.

(Ord. 122099, passed 12-20-99)

§ 52.99 PENALTY.

(A) Any person who continues a violation of § 52.01 beyond the time limit specified in division (B) of that section shall be guilty of a misdemeanor, and on conviction thereof shall be fined in an amount not exceeding \$500 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense. (Ord. 711772, passed 7-11-77)

(B) Any person charged and found guilty in District Court of violating the provisions of §§ 52.30 through 54.44 shall be guilty of a Class B misdemeanor. Each day's violation shall constitute a separate offense. The penalty for an initial violation shall be mandatory fees of \$100, which may not be adjusted by the District Court. In addition, such customer may be required by the Court to serve a definite term of confinement in the county jail which shall be fixed by the Court and which shall not exceed 30 days. The penalty for a second violation shall be a mandatory fine of \$200, which may not be adjusted by the District Court. In addition, such customer shall serve a definite term of confinement in the county jail, which shall be fixed by the Court and which shall not exceed 30 days. Penalties for additional violations shall be the same as the second violation. (Ord. 8888, passed 8-8-88)

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS**
- 71. TRAFFIC RULES**
- 72. PARKING REGULATIONS**
- 73. BICYCLES AND MOTORCYCLES**
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CHAPTER 70: GENERAL PROVISIONS

Section

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- 70.02 Required obedience to traffic directions
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Traffic-Control Devices

- 70.15 Signal legends
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- 70.19 Unauthorized signals or markings
- 70.20 Device to be legible and in proper position
- 70.21 Temporary disregard of devices by police officers

- 70.99 General penalty

§ 70.01 DEFINITIONS.

For the purpose of this title the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTHORIZED EMERGENCY VEHICLES. Vehicles of the Fire Department or Police Department, vehicles of the Commonwealth Attorney's office when on official business, and ambulances on an authorized emergency run.

BOULEVARD. Any legally designated street at which cross traffic is required to stop before entering or crossing such boulevard.

BUSINESS DISTRICT. Any portion of any street between two consecutive intersections in which 50% or more of the frontage on either side of the street is used for business purposes.

CROSSWALK. That portion of the roadway included within the extension of the sidewalk across any intersection, and such other portions of the roadway between two intersections, as may be legally designated as crossing places and marked by stanchions, paint lines, or otherwise.

CURB. The boundary of that portion of the street used for vehicles whether marked by curbstones or not.

INTERSECTION. That part of the public way embraced within the extensions of the street lines of two or more streets which join at an angle whether or not one such street crosses the other.

OFFICIAL TRAFFIC-CONTROL DEVICES. All signs, signals, warnings, directions, markings, and devices placed or erected or maintained by authority of the Chief of Police.

ONE-WAY STREET. A street on which vehicles are permitted to move in one direction only.

OPERATOR. Every person who is in actual physical control of the guidance, starting, and stopping of a vehicle.

PARK. When applied to vehicles, to leave a vehicle standing, whether occupied or not, for a period of time longer than is necessary to receive or discharge passengers or property.

PEDESTRIAN. Any person afoot.

PLAY STREET. Any street or portion thereof so designated by the Chief of Police and reserved as a play area for children, from which all traffic is barred, except vehicles to and from abutting properties.

POLICE DEPARTMENT. The Police Department or other persons or agency authorized to perform the duties of § 70.03 or any other acts necessary to implement and enforce this traffic code.

PUBLIC WAY. The entire width between property lines of every way, dedicated passway, or street set aside for public travel, except bridle paths and foot paths.

REVERSE TURN. To turn a vehicle on any street in such a manner as to proceed in the opposite direction.

RIGHT-OF-WAY. The privilege of the immediate and preferential use of the street.

ROADWAY. That portion of any street, improved, designated, or ordinarily used for vehicular travel.

SIDEWALK. That portion of the street between the curb and the property line intended for the use of pedestrians.

STOPPING. As applied to vehicles, to stop a vehicle longer than is actually necessary to receive or discharge passengers.

STREET. Every public way, including alleys.

TRAFFIC. Pedestrians, ridden or herded animals, vehicles, buses, and other conveyances,

individually or collectively, while using any street for the purpose of travel.

VEHICLE. Every device in, on, or by which any person or property is or may be transported or drawn on any street except devices moved by human power or used exclusively on stationary rails or tracks.

§ 70.02 REQUIRED OBEDIENCE TO TRAFFIC DIRECTIONS.

(A) It shall be unlawful for any person to fail or refuse to comply with any lawful order, signal, or direction given by a uniformed police officer, or to fail or refuse to comply with any of the traffic regulations of this traffic code.

(B) The provisions of this traffic code shall apply to the driver of any vehicle owned or used in the service of the United States government, this state, county, or city, and it shall be unlawful for any such driver to violate any of the provisions of this traffic code, except as otherwise permitted in this traffic code or by state statute.

(C) Every person propelling any pushcart or riding a bicycle or an animal on any roadway, and every person driving any animal on any roadway, and every person driving any animal-drawn vehicle shall be subject to the provisions of this traffic code applicable to the driver of any vehicle, except those provisions of this traffic code which by their very nature can have no application. Penalty, see § 70.99

§ 70.03 POWERS AND DUTIES OF POLICE DEPARTMENT.

It shall be the duty of the Police Department to direct all traffic in conformance with this traffic code and to enforce the traffic regulations as set forth in this traffic code, to make arrest for traffic violations, to investigate accidents, and to cooperate with other officers of the city in the administration of the traffic laws, and in developing ways and means to improve traffic conditions.

§ 70.04 AUTHORITY FOR ENFORCEMENT.

Authority to direct and enforce all traffic regulations of this city in accordance with the provisions of this traffic code and to make arrests for traffic violations is given to the Police Department, and, except in case of emergency, it shall be unlawful for any other person to direct or attempt to direct traffic by voice, hand, whistle, or any other signal. Penalty, see § 70.99

§ 70.05 TEMPORARY REGULATIONS.

When required for the convenience and safety of the public and to alleviate unusual traffic problems, the Chief of Police or other authorized city official shall, at his discretion, have authority

to impose such traffic regulations as he may deem necessary for temporary periods not to exceed two weeks. If these temporary regulations are necessary for a period longer than two weeks, the City Clerk shall be notified in writing of the extended order.

TRAFFIC-CONTROL DEVICES

§ 70.15 SIGNAL LEGENDS.

Whenever traffic is regulated or controlled exclusively by a traffic-control sign or signs exhibiting the words “Go,” “Caution,” or “Stop,” or exhibiting different colored lights for purposes of traffic control, the following colors only shall be used, and these terms and lights shall indicate and be obeyed as follows:

(A) Green alone or “Go”: Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. However, vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection at the time such signal is exhibited.

(B) Steady yellow alone or “Caution” when shown following the green or “Go” signal: Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection. Vehicular traffic facing a steady yellow signal may enter and clear the intersection.

(C) Red alone or double red or “Stop”: Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at such other point as may be indicated by a clearly visible line, and shall remain standing until green or “Go” is shown alone.

(D) Flashing red alone: Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at such other point as may be indicated by a clearly visible line, and shall not again proceed until it can do so without danger.

(E) Flashing amber alone: Vehicular traffic facing the signal shall reduce its speed and proceed cautiously across the intersection controlled by such signal.

(F) “Yield Right-of-Way”: Vehicular traffic facing the “Yield Right-of-Way” sign shall bear the primary responsibility of safely entering the primary intersecting or merging right-of-way. All traffic facing the sign shall yield the right-of-way to all vehicles and pedestrians within such primary intersecting or merging right-of-way. No vehicle facing a “Yield Right-of-Way” sign shall enter the merging or intersecting right-of-way at a speed in excess of 15 miles per hour, except that this speed limit shall not apply to vehicles entering an expressway.

(G) Lane lights: When lane lights are installed over any street for the purpose of controlling the

direction of flow of traffic, vehicular traffic shall move only in traffic lanes over which green arrows appear. However, when flashing amber lights appear above a lane all left turns shall be made from that lane. Where red arrows appear above such lanes, vehicles shall not move against them. If flashing amber lights show above a lane, that lane shall be used only for passing and for left turns unless a sign at such place prohibits such turn.

Penalty, see § 70.99

Statutory reference:

Traffic-control signals, see KRS 189.338

§ 70.16 ESTABLISHMENT AND MAINTENANCE OF TRAFFIC-CONTROL DEVICES.

The city shall establish and maintain all official traffic-control devices necessary within the city. All traffic-control devices, including signs, shall be employed to indicate one particular warning or regulation, shall be uniform, and as far as possible shall be placed uniformly. All traffic-control devices and signs shall conform to required state specifications.

§ 70.17 OBEDIENCE TO SIGNALS.

(A) It shall be unlawful for the driver of any vehicle to disobey the signal of any official traffic-control device placed in accordance with the provisions of this traffic code or of a traffic barrier or sign erected by any of the public departments or public utilities of the city, or any electric signal, gate, or watchman at railroad crossings, unless otherwise directed by a police officer. However, the type and the right to or necessity for such barrier or sign must be approved by the city.

(B) Such sign, signal, marking, or barrier shall have the same authority as the personal direction of a police officer.

Penalty, see § 70.99

§ 70.18 INTERFERENCE WITH SIGNALS.

No person shall without authority attempt to or in fact alter, deface, injure, knock down, or remove any official control device or any railroad sign or signal, or any inscription, shield, or insignia thereon, or any part thereof.

Penalty see § 70.99

§ 70.19 UNAUTHORIZED SIGNALS OR MARKINGS.

(A) It shall be unlawful for any person to place, maintain, or display on or in view of any street any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic device or railroad sign or signal which attempts or purports to direct the movement of traffic, or which conceals or hides from view or interferes with the effectiveness of any official control device or any railroad sign or signal. No person shall place or maintain, nor shall any

public authority permit on any street, any traffic sign or signal any commercial advertising. Nothing in this section shall be construed as restricting any public department or public utility of the city in any emergency or temporarily from marking or erecting any traffic barrier or sign whose placing has been approved by the city.

(B) Every such prohibited sign, signal, or marking is declared to be a public nuisance and the city is empowered forthwith to remove it or cause it to be removed.

Penalty, see § 70.99

§ 70.20 DEVICE TO BE LEGIBLE AND IN PROPER POSITION.

No provision of this traffic code for which signs or any other traffic-control device is required shall be enforceable against an alleged violator if at the time and place of the alleged violation the required device was not in proper position and sufficiently legible to be seen by an ordinarily observant person.

§ 70.21 TEMPORARY DISREGARD OF DEVICES BY POLICE OFFICERS.

In an emergency any police officer may at his discretion disregard traffic-control lights or signals or established regulations in order to facilitate the movement of traffic.

§ 70.99 GENERAL PENALTY.

Any person who violates any provision of this traffic code where no other penalty is specifically provided shall be guilty of a misdemeanor and shall be fined not less than \$20 nor more than \$500.

CHAPTER 71: TRAFFIC RULES

Section

Operation Generally

- 71.01 Obstructing traffic
- 71.02 Reverse or U turns
- 71.03 Backing vehicles
- 71.04 Vehicles crossing sidewalks

Accidents

- 71.15 Duty of operator
- 71.16 Accident report

Prohibitions

- 71.25 Operator of vehicle to drive carefully
- 71.26 Right-of-way of emergency vehicles; following emergency vehicles; driving over fire hose
- 71.27 Smoke emission or other nuisance

Parades

- 71.40 Definitions
 - 71.41 Permit required
 - 71.42 Application for permit
 - 71.43 Standards for issuance of permit
 - 71.44 Notice of rejection of permit
 - 71.45 Appeal procedure when permit denied
 - 71.46 Alternative permit
 - 71.47 Notice to city and other officials when permit issued
 - 71.48 Contents of permit
 - 71.49 Duties of permittee
 - 71.50 Public conduct during parades
 - 71.51 Revocation of permit
-
- 71.99 Penalty

OPERATION GENERALLY**§ 71.01 OBSTRUCTING TRAFFIC.**

(A) It shall be unlawful to operate any vehicle or permit it to remain standing in any street in such manner as to create an obstruction thereof.

(B) It shall be unlawful for the operator of any vehicle to enter any intersection or crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle without obstructing the passage of other vehicles or pedestrians, notwithstanding the indication of any traffic-control signal which may be located at the intersection or crosswalk.

(C) Any intersection deemed by the city to be of special or critical importance to the movement of traffic shall be marked in a distinctive manner in order to indicate its importance. Should the operator of any vehicle enter any intersection so marked when there is insufficient room on the other side of the intersection to accommodate the vehicle, the indication of any traffic-control signal notwithstanding, he shall be deemed to have violated this division rather than division (B) above.

Penalty, see § 71.99

§ 71.02 REVERSE OR U TURNS.

The operator of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety without interfering with other traffic.

(KRS 189.330(8)) Penalty, see § 71.99

§ 71.03 BACKING VEHICLES.

It shall be unlawful for the operator of any vehicle to back the vehicle at any intersection for the purpose of executing a turning movement. A vehicle from any parking position shall be backed by the operator in such manner as to proceed on the same side of the roadway in the lawful direction of travel.

Penalty, see § 71.99

§ 71.04 VEHICLES CROSSING SIDEWALKS.

(A) It shall be unlawful for the operator of any vehicle to drive within any sidewalk space except at a permanent or temporary driveway or by special permit from the Chief of Police or other authorized city official.

(B) It shall be unlawful for the operator of any vehicle to drive the vehicle out of any alley, driveway, building, or lot and across a sidewalk, or its extension across the alley, unless the vehicle has been brought to a complete stop immediately prior to crossing the sidewalk or its extension. On

entering the roadway from the alley, driveway, or building the operator shall yield the right-of-way to all vehicles approaching on the roadway. The operator of any vehicle intending to cross a sidewalk and turn into an alley from the roadway may do so at low speed and with caution.

Penalty, see § 71.99

ACCIDENTS

§ 71.15 DUTY OF OPERATOR.

It shall be the duty of the owner of, operator of, or passenger in any motor vehicle which is involved in an accident in which any person is injured or property damaged to stop immediately and ascertain the extent of the injury or damage and render such assistance as may be needed.

Penalty, see § 71.99

Statutory reference:

Duty in case of accident, see KRS 189.580

§ 71.16 ACCIDENT REPORT.

The operator, owner, or passenger involved in an accident resulting in the injury or death of any person, or an accident in which property is damaged, shall immediately report the accident or property damage to the Police Department.

Penalty, see § 71.99

PROHIBITIONS

§ 71.25 OPERATOR OF VEHICLE TO DRIVE CAREFULLY.

(A) The operator of any vehicle upon a highway shall operate the vehicle in a careful manner, with regard for the safety and convenience of pedestrians and other vehicles upon the highway.

(B) No person shall willfully operate any vehicle on any highway in such a manner as to injure the highway.

(KRS 189.290) Penalty, see § 71.99

§ 71.26 RIGHT-OF-WAY OF EMERGENCY VEHICLES; FOLLOWING EMERGENCY VEHICLES; DRIVING OVER FIRE HOSE.

(A) Upon the approach of an emergency vehicle equipped with, and operating, one or more flashing, rotating, or oscillating red or blue lights visible under normal conditions from a distance of 500 feet to the front of such vehicle; or when the driver is giving audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right-of-way, immediately drive to a position parallel to, and as close as possible to, the edge or curb of the highway clear of any intersection, and stop and remain in such position until the emergency vehicle has passed, except when otherwise directed by a police officer or firefighter.

(B) Upon the approach of any emergency vehicle operated in conformity with the provisions of division (A) above, the operator of every vehicle shall immediately stop clear of any intersection and shall keep such position until the emergency vehicle has passed, unless directed otherwise by a police officer or firefighter.

(C) No operator of any vehicle, unless he is on official business, shall follow any emergency vehicle being operated in conformity with the provisions of division (A) above closer than 500 feet, nor shall he drive into, park the vehicle into, or park the vehicle within the block where the vehicle has stopped in answer to an emergency call or alarm, unless he is directed otherwise by a police officer or firefighter.

(D) No vehicle, train, or other equipment shall be driven over any unprotected hose of a fire department when the hose is laid down on any street, private driveway, or track for use at any fire alarm unless the fire department official in command consents that the hose be driven over.

(E) Upon approaching a stationary emergency vehicle or public safety vehicle, when the emergency vehicle or public safety vehicle is giving a signal by displaying alternately flashing yellow, red, red and white, red and blue, or blue lights, a person who drives an approaching vehicle shall, while proceeding with due caution:

(1) Yield the right-of-way by moving to a lane not adjacent to that of the authorized emergency vehicle, if:

(a) The person is driving on a highway having at least four lanes with not fewer than two lanes proceeding in the same direction as the approaching vehicle; and

(b) If it is possible to make the lane change with due regard to safety and traffic conditions;
or

(2) Reduce the speed of the vehicle, maintaining a safe speed to road conditions, if changing lanes would be impossible or unsafe.

(F) This section does not operate to relieve the person who drives an emergency vehicle from the duty to operate the vehicle with due regard for the safety of all persons using the highway.

(KRS 189.930) Penalty, see § 71.99

§ 71.27 SMOKE EMISSION OR OTHER NUISANCE.

Every vehicle when on a highway shall be so equipped as to make a minimum of noise, smoke, or other nuisance, to protect the rights of other traffic, and to promote the public safety.
(KRS 189.020) Penalty, see § 71.99

PARADES

§ 71.40 DEFINITIONS.

For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PARADE. Any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display in or on any street, sidewalk, park, or other public place in the city.

PARADE PERMIT. A permit required by this subchapter.

§ 71.41 PERMIT REQUIRED.

(A) Any person or groups or organizations of persons shall first obtain a permit from the city prior to conducting any march or parade in the city limits.

(B) This subchapter shall not apply to:

(1) Funeral processions; or

(2) A governmental agency acting within the scope of its functions.

Penalty, see § 71.99

§ 71.42 APPLICATION FOR PERMIT.

A person seeking issuance of a parade permit shall file an application with the Chief of Police or other authorized city official on forms provided by such officer.

(A) Filing period. The application for a parade permit shall be filed not less than five days or not more than 60 days before the date on which it is proposed to conduct the parade.

(B) The application for a parade permit shall set forth the following information:

(1) The name, address, and telephone number of the person seeking to conduct the parade;

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(2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address, and telephone number of the headquarters of the organization and of the authorized and responsible heads of the organization;

(3) The name, address, and telephone number of the person who will be the parade chairman and who will be responsible for its conduct;

(4) The date when the parade is to be conducted;

(5) The route to be traveled, the starting point, and the termination point;

(6) The approximate number of persons, animals, and vehicles which will constitute the parade, the type of animals, if any, and the description of the vehicles;

(7) The hours when the parade will start and terminate;

(8) A statement as to whether the parade will occupy all or only a portion of the width of the streets, sidewalk, park, or other public place proposed to be traversed;

(9) The location by street of any assembly area for the parade;

(10) The time at which units of the parade will begin to assemble at any such assembly area or areas;

(11) The interval of space to be maintained between units of the parade;

(12) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for the permit shall file a communication in writing from the person authorizing the applicant to apply for the permit on his behalf;

(13) Any additional information reasonably necessary to a fair determination as to whether a permit should issue.

(C) There shall be paid at the time of filing an application for a parade permit a fee in an amount as established by the City Council.
Penalty, see § 71.99

§ 71.43 STANDARDS FOR ISSUANCE OF PERMIT.

The Chief of Police or other authorized city official shall issue a permit when, from a consideration of the application and from other information obtained, he finds that:

(A) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;

(B) The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;

(C) The conduct of the parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and areas contiguous thereto;

(D) The concentration of persons, animals, and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the assembly areas;

(E) The conduct of the parade will not interfere with the movement of fire fighting equipment enroute to a fire;

(F) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays enroute.

Penalty, see § 71.99

§ 71.44 NOTICE OF REJECTION OF PERMIT.

The Chief of Police or other authorized city official shall act on the application for a parade permit within three days, Saturdays, Sundays, and holidays excepted, after filing thereof. If he disapproves the application, he shall mail to the applicant within the three days, Saturdays, Sundays, and holidays excepted, after the date on which the application was filed, a notice of his action stating the reasons for his denial of the permit.

§ 71.45 APPEAL PROCEDURE WHEN PERMIT DENIED.

Any person aggrieved shall have the right to appeal the denial of a parade permit to the City Council. The appeal shall be taken within 30 days after notice of denial. The City Council shall act on the appeal within 30 days after its receipt.

§ 71.46 ALTERNATIVE PERMIT.

The Chief of Police or other authorized city official, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different than that named by the applicant. An applicant desiring to accept an alternate permit shall file a written notice of his acceptance. An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit under this subchapter.

§ 71.47 NOTICE TO CITY AND OTHER OFFICIALS WHEN PERMIT ISSUED.

Immediately on the issuance of a parade permit, a copy thereof shall be sent to the following persons:

(A) The Mayor;

(B) The City Attorney;

(C) The Fire Chief;

(D) The general manager or responsible head of each public utility, the regular routes of whose vehicles will be affected by the route of the proposed parade.

§ 71.48 CONTENTS OF PERMIT.

Each parade permit shall state the following information:

(A) Starting time;

(B) Minimum speed;

(C) Maximum speed;

(D) Maximum interval of space to be maintained between the units of the parade;

(E) The portions of the street, sidewalk, park, or other public place to be traversed that may be occupied by the parade;

(F) The maximum length of the parade in miles or fractions thereof;

(G) Such other information as is reasonably necessary to the enforcement of this subchapter.

Penalty, see § 71.99

§ 71.49 DUTIES OF PERMITTEE.

A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The parade chairman or other person heading or leading the activity shall carry the parade permit on his person during the conduct of the parade.

Penalty, see § 71.99

§ 71.50 PUBLIC CONDUCT DURING PARADES.

(A) Interference. No person shall unreasonably hamper, obstruct, impede, or interfere with any parade or parade assembly or with any person, vehicle, or animal participating or used in a parade.

(B) Driving through parades. No driver of a vehicle except a police car or other emergency vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

Cross reference:

Parking on parade routes, see § 72.07

§ 71.51 REVOCATION OF PERMIT.

The city shall have the authority to revoke a parade permit issued hereunder on application of the standards for issuance as herein set forth.

§ 71.99 PENALTY.

(A) Whoever violates any provision of this chapter for which no other penalty is specifically provided shall be guilty of a misdemeanor and shall be fined not less than \$20 nor more than \$500.

(B) Any person who violates § 71.26 shall be guilty of a misdemeanor and shall be fined not less than \$60 nor more than \$500, or be imprisoned in the county jail for not more than 30 days, or both. (KRS 189.993(8))

CHAPTER 72: PARKING REGULATIONS

Section

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72.99 Penalty

Statutory reference:

Revenues from fees, fines, and forfeitures related to parking, see KRS 65.120

PARKING GENERALLY

§ 72.01 OBSTRUCTIONAL PARKING; DOUBLE PARKING.

(A) It shall be unlawful for any person to leave any vehicle or any other thing that may be a nuisance, obstruction, or hindrance in or on any street, alley, or sidewalk within the city either during the day or night.

(B) It shall be unlawful for any person to stop or park any vehicle on the roadway side of any other vehicle stopped or parked at the edge or curb of a street.

Penalty, see § 72.99

§ 72.02 MANNER OF PARKING.

(A) It shall be unlawful for the operator of any vehicle to stop or park the vehicle in a manner other than with its right-hand side toward and parallel with the curb, except that where parking is permitted on the left side of a one-way street, the left-hand side shall be so parked, and except for commercial loading and unloading on one-way streets.

(B) No vehicle shall be parked or left standing on any street unless its two right wheels are within six inches of and parallel with the curb, except that on one-way streets where parking is permitted on the left side the two left wheels are to be within six inches of and parallel with the curb.

(C) No vehicle shall be backed to the curb on any street, except that wagons and trucks may do so when loading and unloading provided that such loading and unloading and delivery of property and material shall not consume more than 30 minutes. Such backing of trucks or wagons is prohibited at all times and on all streets in the city where any truck or wagon so backed interferes with the use of the roadway of moving vehicles or occupies road space within ten feet of the center line of the street.

(D) The city may establish diagonal parking at certain places, requiring the parking of vehicles at a certain angle to the curb and within a certain portion of the roadway adjacent thereto. However, diagonal parking shall not be established where the roadway space required therefor would be within

ten feet of the center line of any street. Such diagonal parking places shall be designated by suitable signs, and shall indicate by markings on the pavement the required angle and the width of the roadway space within which such vehicle shall park.

(E) It shall be unlawful for the operator of any vehicle to so park such vehicle that any part thereof shall extend beyond the lines marking the side or the rear of the space assigned for one vehicle.
Penalty, see § 72.99

§ 72.03 LIMITATIONS OF STOPPING AND PARKING.

It shall be unlawful for the operator of any vehicle to stop or park such vehicle except in a case of real emergency or in compliance with the provisions of this traffic code or when directed by a police officer or traffic sign or signal at any time in the following places:

(A) On the mainly-traveled portion of any roadway or on any other place in the roadway where vehicles stand in any manner other than as specified in § 72.02;

(B) On a sidewalk;

(C) In front of sidewalk ramps provided for persons with disabilities;

(D) In front of a public or private driveway;

(E) Within an intersection or on a crosswalk;

(F) At any place where official signs prohibit stopping or parking. This does not apply to police officers when operating properly identified vehicles during the performance of their official duties;

(G) Within 30 feet of any flashing beacon, traffic sign, or traffic-control signal located on the side of a roadway;

(H) On a controlled access highway;

(I) Within a highway tunnel;

(J) Within 15 feet of a fire hydrant; or

(K) In an area between the roadways of a divided highway.
(KRS 189.450(5))

(L) Within 15 feet of any corner or on any turn or curve on any of the streets or passways of the city.
(Ord. 1946-2, passed - -46)

(M) No person shall move a vehicle not lawfully under his or her control into any such prohibited area.

(KRS 189.450(6)) Penalty, see § 72.99

§ 72.04 RESTRICTIONS AND PROHIBITIONS ON DESIGNATED STREETS.

(A) The provisions of this section prohibiting the stopping and parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control devices.

(B) The provisions of this section imposing a time limit on parking shall not relieve any person from his or her duty to observe other and more restrictive provisions prohibiting or limiting the stopping or parking of vehicles in specific places or at specified times.

(C) When signs are erected in compliance with the provisions of division (F) below giving notice thereof, no person shall park a vehicle at any time on any street so marked by official signs.

(D) When a curb has been painted in compliance with the provisions of division (F) below, no person shall park a vehicle at any time at or adjacent to any curb so marked.

(E) When signs are erected in compliance with the provisions of division (F) below, in each block giving notice thereof, no person shall park a vehicle between the hours specified by official signs on any day except Sundays on any street so marked.

(F) (1) The city shall determine on what streets or portions thereof stopping or parking shall be restricted or prohibited. Whenever under authority of or by this traffic code or any other ordinance any parking limit is imposed or parking is prohibited on designated streets, or parking areas are restricted to handicapped parking, appropriate signs shall be erected giving notice thereof. However, in lieu of erecting such signs or in conjunction therewith, the face and top of a curb or curbs at or adjacent to which parking is prohibited at all times may be painted a solid yellow color.

(2) No such regulations or restrictions shall be effective unless the signs have been erected and are in place or the curbs are painted yellow at the time of any alleged offense, except in the case of those parking restrictions which by their very nature would not require such signs and markings.

(G) When signs are erected in compliance with division (F) above in each block giving notice thereof, no person shall park a vehicle for a time longer than specified on official signs any day except Sunday and on any street so marked.

Penalty, see § 72.99

§ 72.05 PARKING RESTRICTED TO ALLOW STREET CLEANING.

The city is authorized to designate street cleaning areas and shall provide suitable signs and markings on the street to be cleaned, restricting parking on that particular day. It shall be unlawful for the operator of any vehicle to stop on any street so designated.

Penalty, see § 72.99

**§ 72.06 PARKING IN EXCESS OF CERTAIN NUMBER OF HOURS PROHIBITED;
TOWING AUTHORIZED.**

It shall be unlawful for anyone to park in any one place any vehicle on any of the public ways or

streets of the city for a period of 24 hours or longer. Any vehicle left parked in any one place on any of the public ways or streets of the city for a period of 24 hours or longer shall be deemed abandoned, and shall be subject to all existing regulations of the city pertaining to abandoned motor vehicles.

Penalty, see § 72.99

Cross-reference:

Removal of abandoned vehicles, see § 72.21 et seq.

§ 72.07 PARKING ON PARADE ROUTE.

(A) The Chief of Police or other authorized city official shall have the authority, whenever in his judgment it is necessary, to prohibit or restrict the parking of vehicles along a street or part thereof constituting a part of the route of a parade or procession, to erect temporary traffic signs to that effect, and to prohibit and prevent such parking.

(B) It shall be unlawful to park or leave unattended any vehicle in violation of such signs or directions.

Penalty, see § 72.99

Cross-reference:

Parades, see §§ 71.40 through 71.51

§ 72.08 PARKING ON OFF-STREET FACILITY.

(A) It shall be unlawful for the driver of a motor vehicle to park or abandon the vehicle or drive on or otherwise trespass on another's property, or on an area developed as an off-street parking facility, without the consent of the owner, lessee, or person in charge of such property or facility.

(B) If at any time a vehicle is parked, abandoned, or otherwise trespass in violation of division (A) of this section, the owner, lessee, or person in charge of the property or facility may have the unauthorized motor vehicle removed in accordance with the provisions of §§ 72.20 through 72.22.

(C) Every property owner or operator of an off-street parking facility shall post signs stating thereon that the property or parking lot or facility is privately owned and that unauthorized vehicle will be removed at the owner's expense before exercising the authority granted in division (B).

Penalty, see § 72.99

Statutory reference:

Removal of vehicles by owners of private parking lots; signs, see KRS 189.725

§ 72.09 OWNER RESPONSIBILITY.

If any vehicle is found illegally parked in violation of any provisions of this subchapter regulating stopping, standing, or parking of vehicles, and the identity of the driver cannot be determined, the

owner or person in whose name the vehicle is registered shall be held prima facie responsible for the violation.

Penalty, see § 72.99

§ 72.10 PARKING IN PARKS.

It shall be unlawful for any person to park any motor vehicle in or on any section of any public park, playground, play lot, or tot lot within the city not designed as a parking area or designed and regularly maintained as a roadway. However, nothing contained in this section shall be construed as prohibiting the parking of a motor vehicle parallel to a designated and regularly maintained roadway in any such park or playground where at least two wheels of the motor vehicle are resting on such roadway.

Penalty, see § 72.99

§ 72.11 DISPLAY OF PARKED VEHICLE FOR SALE.

It shall be unlawful to park a motor vehicle displayed for sale or a motor vehicle on which demonstrations are being made on any street.

Penalty, see § 72.99

§ 72.12 PARKING WITH HANDICAPPED PERMITS.

(A) Any other provision to the contrary notwithstanding, a motor vehicle bearing a decal in its front windshield issued by the County Clerk pursuant to appropriate county ordinances for handicapped persons, when operated by a handicapped person or when transporting a handicapped person, may be parked in a designated handicapped parking place, or when parked in a metered parking space may be parked for two hours for no fee, or when parked where any parking limit is imposed may be parked for two hours in excess of the parking limit. The motor vehicle may be parked in a loading zone for that period of time necessary to permit entrance or exit of the handicapped person to or from the parked vehicle, but in no circumstances longer than 30 minutes.

(B) This section shall not permit parking in a “no stopping” or “no parking” zone nor where parking is prohibited for the purpose of creating a fire lane or to accommodate heavy traffic during morning, afternoon, or evening hours, nor permit a motor vehicle to be parked in such a manner as to constitute a traffic hazard.

Penalty, see § 72.99

IMPOUNDING

§ 72.20 IMPOUNDMENT OF VEHICLES AUTHORIZED; REDEMPTION.

(A) All police officers are empowered to authorize the impoundment of a vehicle violating vehicle-related ordinances after a citation has been issued.

(B) A vehicle slated for impoundment will be tagged and placed under control of the Police Department. Should a vehicle be moved without the consent and approval of the Police Department a warrant shall be issued immediately for the violator's arrest.

(C) All fines, fees, and charges must be paid in full before a release of impoundment can be issued for the vehicle's release.

§ 72.21 REQUIRED NOTICE TO OWNER.

(A) (1) Any person engaged in the business of storing or towing motor vehicles, who has complied with the notification requirements of KRS 281.928, shall have a lien on the motor vehicle and its contents, except as set forth in division (B) of this section, for the applicable and reasonable charges assessed in accordance with KRS 281.926 and 291.932, as long as it remains in his or her possession.

(2) If, after a period of 45 days, the applicable and reasonable charges assessed in accordance with KRS 281.926 and 281.932 have not been paid, the motor vehicle and its contents, except as set forth in division (B) of this section, may be sold to pay the charges after the owner and any lienholder have been notified by certified mail at the addresses specified in KRS 281.928(1), ten days prior to the time and place of the sale. If the proceeds of the sale of any vehicle pursuant to this section are insufficient to satisfy accrued charges, the sale and collection of proceeds shall not constitute a waiver or release of responsibility for payment of unpaid charges by the owner or responsible casualty insurer of the vehicle. A lien on a vehicle under this subsection shall be subject to prior recorded liens, unless released by any existing lienholder pursuant to division (A)(3).

(3) A lienholder having a prior recorded lien listed on the title issued by the Commonwealth of Kentucky shall be notified by certified mail within the first ten days of impoundment in accordance with KRS 281.928. Such notification, in addition to the requirements of KRS 281.928 shall include the make, model, license number, vehicle identification number, owner's name and last known address, and tentative date of sale for the vehicle, and state that the towing company or storage facility seeks to obtain a new title free and clear of any liens, excluding tax liens. If the above-referenced certified letter is not sent within the ten days by the towing and storage company, then only ten days of storage may be charged. The lienholder has the right to take possession of the motor vehicle after showing proof of lien still enforced, and paying the reasonable or agreed towing and storage charges on the motor vehicle. If a lienholder does not exercise the right to take possession of the motor vehicle under this division within 45 days of notification, and all lienholders agree in writing, the towing company or storage facility may obtain a new title under KRS 186A.145 free and clear of any liens, excluding tax liens. Nothing in this section shall allow the transfer of a vehicle subject to a lien, except as provided in KRS 186A.190.

(4) If there are no lienholders required to be notified under KRS 281.920 to 281.936 and 359.230 and this section, and the owner does not exercise the right to take possession of the motor vehicle under this section within 45 days of notification required under KRS 281.928, the towing company or storage facility may obtain a new title under KRS 186A.145 free and clear of any liens, excluding tax liens.

(B) Division (A) shall not apply to the following contents of a motor vehicle, which shall be released to the vehicle owner or the owner's designated agent upon request, if the request is made within 45 days of the date the vehicle was towed:

- (1) Prescription medication in its proper container;
- (2) Personal medical supplies and equipment or records;
- (3) Educational materials, including but not limited to calculators, books, papers, and school supplies;
- (4) Documents, files, electronic devices, or equipment which may be able to store personal information or information relating to a person's employment or business;
- (5) Firearms and ammunition. Notwithstanding the provisions of § 72.22, firearms and ammunition which are not claimed by the owner of the vehicle within 45 days of the date the vehicle was towed shall be transferred to the Department of Kentucky State Police for disposition as provided by KRS 16.220;
- (6) Cargo in the possession of persons engaged in transportation in interstate commerce as registered under KRS 186.020;
- (7) Cargo in the possession of an integrated intermodal small package carrier as defined by KRS 281.605(12);
- (8) Child restraint systems or child booster seats; and
- (9) Checks, checkbooks, debit or credit cards, money orders, stocks, or bonds.
(KRS 376.275(1), (2))

§ 72.22 SALE OF VEHICLE.

Except as provided in § 72.21(B)(5), any contents exempted under § 72.21(B)(3), (B)(4), (B)(6) and (B)(7) that are not claimed by the owner of the vehicle within 45 days of the date the vehicle was towed may be sold or otherwise legally disposed of by the storage or towing company. Any contents exempted under § 72.21(B)(1), (B)(2), (B)(8) and (B)(9) that are not claimed by the owner of the vehicle within 45 days of the date the vehicle was towed shall not be sold, but shall be otherwise legally disposed of by the storage or towing company.
(KRS 376.275(3))

SNOW EMERGENCY

§ 72.35 ANNOUNCEMENT OF SNOW EMERGENCY.

Whenever the Chief of Police or other authorized city official finds that falling snow, sleet, or freezing rain will create a condition which makes it necessary that the parking of motor vehicles on snow emergency routes be prohibited, or whenever he finds on the basis of a firm forecast of snow, sleet, or freezing rain that the weather conditions so forecasted may create a condition making it necessary that such parking be prohibited, he is authorized to announce such prohibition, to become effective at a time specified by him. After the effective time of such prohibition no person shall park any vehicle or permit any vehicle to remain parked on a snow emergency route. However, if a fall of snow, sleet, or freezing rain occurs after 11:00 p.m. and prior to 6:00 a.m., and the Chief of Police or other authorized city official has not announced prior to 11:00 p.m. that parking on snow emergency routes is to be prohibited after a specified time, a vehicle parked on a snow emergency route may remain so parked until 7:00 a.m. following such fall. The prohibition of parking announced by the Chief of Police or other authorized city official under the authority of this section shall remain in effect until he announces the termination of the snow emergency, in part or in which the prohibition of parking authorized by this section shall no longer be in effect.

Penalty, see § 72.99

§ 72.36 TERMINATION OF EMERGENCY.

Whenever the Chief of Police or other authorized city official shall find that some or all of the conditions which gave rise to the snow emergency prohibition no longer exist, he is authorized to declare the termination of the emergency, in part or in whole, effective immediately on announcement. If such announcement is made other than between 6:00 a.m. and 11:00 p.m., it shall be repeated between those hours.

§ 72.37 SNOW EMERGENCY ROUTES.

The term ***SNOW EMERGENCY ROUTE*** shall mean any route designated by the Chief of Police or other authorized city official. On such street or highway designated as a snow emergency route, special signs shall be posted to this effect.

METERED PARKING

§ 72.50 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HIGHWAY or STREET. Any public street, avenue, road, boulevard or other public place within the city, and established for the use of vehicles.

OPERATOR. Every individual who shall operate a motor vehicle as the owner thereof or as the agent, employee, or permittee of the owner.

PERSON. An individual, firm, partnership, corporation, association or other organization.

VEHICLE. Any device in or upon or by which any person or property is or may be transported upon a highway or street.
(Ord. 1946-6, passed 11-4-46; Am. Ord. 121587, passed 12-15-87)

§ 72.51 PARKING METER ZONES.

(A) There are hereby established and fixed certain zones to be known as parking meter zones in and on the following streets and highways in the city and set forth as follows:

(1) North side of Main street from alley at old Hargis Bank building to Broadway; west side of Broadway from Post Office to College Avenue; east side of Broadway from College Avenue to Highland Avenue; north side of College Avenue from Bridge to Jail Street; east side of Jail Street from Main Street to College Avenue; Court Street from Main Street to College Avenue.

(2) From time to time hereafter as traffic conditions may require in such other streets or highways as may be designated by ordinance of the City Council for the location of such zones.

(B) In any of the parking meter zones or any part or portion of the said separately designated parking meter zones the Council may cause parking meters to be installed at each space in such zones in its discretion available for parking of vehicle or vehicles and shall see that there shall be plainly indicated on each of such meters the time limitations for parking. Such time limitations shall be designated by approximate notice posted in the proximity of said meters.
(Ord. 1946-6, passed 11-4-46; Am. Ord. 121587, passed 12-15-87)

§ 72.52 CHARGE FOR USE OF CERTAIN PARKING SPACES.

The time limit for parking in the zones designated in § 72.51 of this subchapter and the charge made for the use of each of such parking space and the money to be placed in the meter in each particular parking space designated, by the person using any such parking space, in such zone or zones shall be as follows:

Overtime parking	\$1
Double parking	\$3
No parking zone (yellow)	\$3

Blocking alley	\$5
Blocking driveway	\$5
No parking 7 a.m. to 5 p.m.	\$3
Parked wrong side of street	\$3
Other	\$5

(Ord. 1946-6, passed 11-4-46; Am. Ord. 121587, passed 12-15-87)

§ 72.53 PURCHASE, INSTALLATION AND MAINTENANCE OF METERS.

The Mayor is hereby vested with the power and authority to enter into a contract for the purchase and installation of parking meters to provide for the installation, regulation, control, operation and use of parking meters, and maintain the meters in good workable condition. The payment for the meters and for the installation thereof shall be provided solely from the receipts, funds and revenue obtained from the operation of the parking meters without in any manner obligating the city to pay for the same from any other source. The Mayor is further authorized and empowered to enter into a contract, or contracts, after approval of the terms and conditions thereof by the City Council, for such protection and maintenance of the parking meters as may be necessary to maintain the same in good operating condition and to pay for such parts, protection and maintenance exclusively from the receipts, funds and revenues received from the operation of the parking meters.

(Ord. 1946-6, passed 11-4-46; Am. Ord. 121587, passed 12-15-87)

§ 72.54 LOCATION AND OPERATION.

Parking meters installed in the parking meter zones established as provided in § 72.51 of this subchapter shall be placed upon the curb or other portion of the street or sidewalk adjacent to the individual parking places hereinafter described. Each parking meter shall be placed or set in such manner as to show or display by a signal that the parking space adjacent to such meter is or is not legally in use. Each parking meter installed shall indicate by proper legal parking time established by the city, and when in operation shall indicate by some appropriate device the duration of the period of legal parking, and on the expiration of such period shall indicate illegal overparking.

(Ord. 1946-6, passed 11-4-46; Am. Ord. 121587, passed 12-15-87)

§ 72.55 LINES AND MARKINGS FOR METERED AREAS.

The Mayor shall, with the approval of the Kentucky State Department of Highways, have lines or markings painted or placed upon the curb or upon the street adjacent to each parking meter for the purpose of designating the parking space for which said meter is to be used, and each vehicle parked adjacent to any parking meter shall park within the lines or markings so established. It shall be unlawful

and a violation of this subchapter to park any vehicle across any such line or marking or to park the vehicle in such position that the same shall not be entirely within the area so designated by such lines or markings.

(Ord. 1946-6, passed 11-4-46; Am. Ord. 121587, passed 12-15-87) Penalty, see § 72.99

§ 72.56 MANNER OF PARKING IN METERED SPACES.

When a parking space in any parking meter zone is parallel with the adjacent curb or sidewalk, any vehicle parked in such parking space shall be parked so that the right front of the vehicle shall be nearest to the parking meter.

(Ord. 1946-6, passed 11-4-46; Am. Ord. 121587, passed 12-15-87) Penalty, see § 72.99

§ 72.57 DEPOSIT OF COINS; ILLEGAL PARKING.

When a vehicle shall be parked in any parking space adjacent to which a parking meter is located, the operator of the vehicle shall upon entering the parking space, immediately deposit or cause to be deposited a coin or coins of the United States in such parking meter. Failure to deposit such coin shall constitute a violation of this subchapter and shall subject the operator to the penalty provided in § 72.99. Upon the deposit of such coin or coins and the placing of the parking meters in operation, the parking space adjacent to the parking meter may be lawfully occupied by the vehicle during the parking time paid for in accordance with the schedule set forth in § 72.52. If the vehicle shall remain parked in any parking meter space beyond the parking time so paid for, the parking meter shall by its dial and pointer indicate such illegal parking, and in the event such vehicle shall be parked overtime or beyond the period of parking time paid for, the parking of such a vehicle in such a manner shall be a violation of this subchapter and punishable as provided in § 72.99.

(Ord. 1946-6, passed 11-4-46; Am. Ord. 121587, passed 12-15-87) Penalty, see § 72.99

§ 72.58 PARKING BEYOND LEGAL PARKING TIME.

It shall be unlawful and a violation of the provisions of this subchapter for any operator to cause, allow, permit, or suffer any vehicle to be parked overtime or beyond the period of legal parking time paid for as provided in §§ 72.51 and 72.52.

(Ord. 1946-6, passed 11-4-46; Am. Ord. 121587, passed 12-15-87) Penalty, see § 72.99

§ 72.59 USE OF SLUGS.

It shall be unlawful and a violation of this subchapter to deposit or cause to be deposited in any parking meter any slug, device or metallic or other substitute for a coin of the United States.

(Ord. 1946-6, passed 11-4-46; Am. Ord. 121587, passed 12-15-87) Penalty, see § 72.99

§ 72.60 DEFACING OR TAMPERING WITH METERS.

It shall be unlawful and a violation of the provisions of this subchapter for any person or operator to deface, injure, tamper with, open, break, destroy, or impair the usefulness of any parking meter installed.

(Ord. 1946-6, passed 11-4-46; Am. Ord. 121587, passed 12-15-87) Penalty, see § 72.99

§ 72.61 ENFORCEMENT; NOTICE OF VIOLATION.

(A) It shall be the duty of the police officers of the city, acting in accordance with instructions issued by the Mayor to report:

(1) The state registration license number of every vehicle parked in a parking meter space where the parking meter indicated the vehicle occupying the parking space adjacent to such parking meter is or has been parked in violation of any of the provisions of this subchapter.

(2) Any other facts or knowledge which may be necessary for thorough understanding of the circumstances attending such violation.

(B) The police officer shall place upon each such vehicle a notice to the owner or operator thereof that such vehicle has been or is parked in violation of a provision of this subchapter, instructing such owner or operator to report to the County District Court in regard to such violation. Each owner or operator may within 24 hours of the time when such notice was placed upon such vehicle pay to the Police Department as a penalty for and in full satisfaction of such violation the sum affixed to the specific violation by this subchapter.

(Ord. 1946-6, passed 11-4-46; Am. Ord. 121587, passed 12-15-87)

§ 72.62 PARKING METER STREET FUND.

The coins required to be deposited in parking meters as herein provided shall be collected and delivered to the City Clerk and deposited in a special fund to be known as the "Parking Meter Street Fund," such fund to be used to provide for the proper regulation and control of traffic upon the public streets and highways, the cost of supervision and regulating the parking of vehicles in the parking meter zones, the cost of purchase, supervision, protection, inspection, installation, maintenance, collection of coins, control and use of the parking meters herein described, and for such other governmental uses as the City Council of the city may from time to time determine.

(Ord. 1946-6, passed 11-4-46; Am. Ord. 121587, passed 12-15-87)

§ 72.99 PENALTY.

(A) Any person receiving a citation for any parking violation in the city shall be deemed to have committed a violation and shall be fined in an amount not less than \$20 nor more than \$100. (KRS 189.990(1))

(B) Any person who shall violate any provision of §§ 72.50 through 72.62 or any person who aids, abets or assists in the violation of any provision of this subchapter shall be guilty of a violation and shall be cited to Breathitt County District Court where a fine and penalty shall be affixed by the court. (Ord. 1946-6, passed 11-4-46; Am. Ord. 121587, passed 12-15-87)

CHAPTER 73: BICYCLES AND MOTORCYCLES

Section

- 73.01 Operation of bicycles
- 73.02 Operation of motorcycles and motorscooters
- 73.03 Skating and coasting
- 73.04 Clinging to vehicles

- 73.99 Penalty

Cross-reference:

Required obedience to traffic directions, see § 70.02(C)

§ 73.01 OPERATION OF BICYCLES.

(A) No person shall operate a bicycle on the sidewalks of the city.

(B) No person shall operate a bicycle on any section of a public park, playground, play lot, or tot lot, except on a roadway or in a parking area.

(C) No operator of any bicycle shall carry another person on such bicycle.

Penalty, see § 73.99

Statutory reference:

Bicycles; safety regulations and standards, see KRS 189.287

§ 73.02 OPERATION OF MOTORCYCLES AND MOTORSCOOTERS.

(A) No operator of any motorcycle, motorscooter, or power-driven bicycle shall carry another person except on a seat attached thereto or in a side car attached to the vehicle.

(B) No operator of a motorcycle, motorscooter, or power-driven bicycle shall operate such vehicle in any public park, except on a roadway or in a parking area.

(C) No operator of a motorcycle, motorscooter, or power-driven bicycle shall operate such vehicle in any play lot or tot lot.

Penalty, see § 73.99

Statutory reference:

Regulations for operating and riding on motorcycles, see KRS 189.285

§ 73.03 SKATING AND COASTING.

Except on streets which may be declared from time to time as “play streets” by the city and protected by barriers or official signs, it shall be unlawful for any person on skates or riding on a coaster sled or toy vehicle of any kind, to go on any roadway except at a crosswalk.

Penalty, see § 73.99

§ 73.04 CLINGING TO VEHICLES.

(A) No person while riding on a bicycle, coaster sled, roller skates, or any toy vehicle shall cling to any moving vehicle on any street, or fasten or attach the vehicle on which he is riding thereto.

(B) No person shall ride on the projection, running board, or fenders of any vehicle.

Penalty, see § 73.99

§ 73.99 PENALTY.

Whoever violates any provision of this chapter shall be deemed to have committed a violation and shall be fined not more than \$50 for each offense.

CHAPTER 74: PARKING SCHEDULES

Schedule

I. Parking prohibited

SCHEDULE I. PARKING PROHIBITED.

No person shall park any vehicle upon the following streets or portions of streets described below.

<i>Street</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Cherry Street	1958-5	3-3-58

Penalty, see § 72.99

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. LITTERING**
- 91. STREETS AND SIDEWALKS**
- 92. NUISANCES**
- 93. FIREWORKS; FIRE PREVENTION**
- 94. CIVIL DEFENSE AND DISASTER RELIEF**
- 95. ANIMALS**

CHAPTER 90: LITTERING

Section

- 90.01 Throwing litter from vehicle
- 90.02 Tracking foreign matter on streets
- 90.03 Hauling loose material
- 90.04 Sweeping litter into gutters
- 90.05 Litter on private property

- 90.99 Penalty

§ 90.01 THROWING LITTER FROM VEHICLE.

No person while a driver or passenger in a vehicle shall throw or deposit litter upon any street or other public place within the city or upon private property.

Penalty, see § 90.99

§ 90.02 TRACKING FOREIGN MATTER ON STREETS.

No person shall drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit upon any street, alley, or other public place, mud, dirt, sticky substances, litter, or foreign matter of any kind.

Penalty, see § 90.99

§ 90.03 HAULING LOOSE MATERIAL.

Every person hauling or causing to be hauled dirt, sand, gravel, cement, fill dirt, or loose material of any kind in or upon any street, alley, sidewalk, or other public place shall haul it, or cause it to be hauled in vehicles provided with tight boxes or beds so constructed or loaded as to prevent any of the contents from falling or being thrown, blown, or deposited upon any street, alley, sidewalk, or other public place. Any materials which fall from, or which are thrown, blown, or deposited from any vehicle upon any street, alley, sidewalk, or other public place, shall be removed immediately by the person in charge of the vehicle.

Penalty, see § 90.99

§ 90.04 SWEEPING LITTER INTO GUTTERS.

No person shall sweep into or deposit in any gutter, street, or other public place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter. Penalty, see § 90.99

§ 90.05 LITTER ON PRIVATE PROPERTY.

(A) No person shall throw or deposit litter on any occupied private property within the city, whether owned by that person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon streets, sidewalks, or other public places, or upon any private property.

(B) No person shall throw or deposit litter on any open or vacant private property within the city whether owned by that person or not. Penalty, see § 90.99

§ 90.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500. Each day the violation is committed or permitted to continue shall constitute a separate offense.

CHAPTER 91: STREETS AND SIDEWALKS

Section

General Provisions

- 91.01 Deposit of unauthorized material in city manholes

Excavations and Construction

- 91.15 Opening permit required
91.16 Application and cash deposit
91.17 Restoration of pavement
91.18 Barriers around excavations
91.19 Warning lights
91.20 Sidewalk construction

Road and Bridge Projects

- 91.35 Public hearing required
91.36 Notice requirements
91.37 Public may testify; effect of testimony
91.38 Hearing to be held prior to construction
91.39 Separate hearing for each project not required
91.40 Exemptions from hearing requirement

Obstructions

- 91.55 Unloading on street or sidewalk
91.56 Street and sidewalk obstruction
91.57 Materials on street or sidewalk
91.58 Removal of ice and snow
91.59 Accumulation of mud, dirt and the like on street or sidewalk
91.60 Display of merchandise on streets and sidewalks
91.61 Trash and rubbish receptacles
91.62 Damaging streets and sidewalks
91.63 Streets, sidewalks and public ways

State or Federal Maintained Highways

- 91.75 Maintenance agreements

House Numbering

91.85 House numbering regulations

91.99 Penalty

GENERAL PROVISIONS**§ 91.01 DEPOSIT OF UNAUTHORIZED MATERIAL IN CITY MANHOLES.**

(A) It shall be unlawful for any person or persons to place, deposit, or permit to be deposited, upon public or private property, within the city, or within any area under the jurisdiction of the city, any human or animal excrement, garbage or other objectionable waste, in any manhole of the city.

(B) Any person found to be violating any provision of this section shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations.

(C) Any person violating any provision of this section shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation.
(Ord. 711771, passed 7-11-77; Am. Ord. 062409, passed 6-24-09) Penalty, see § 91.99

EXCAVATIONS AND CONSTRUCTION**§ 91.15 OPENING PERMIT REQUIRED.**

It shall be unlawful for any person, other than an authorized city official, to make any opening in any street, alley, sidewalk, or public way of the city unless a permit to make the opening has been obtained prior to commencement of the work.

(Am. Ord. 062409, passed 6-24-09) Penalty, see § 91.99

§ 91.16 APPLICATION AND CASH DEPOSIT.

Each permit for making an opening shall be confined to a single project and shall be issued by the authorized city official. Application shall be made on a form prescribed by the legislative body, giving the exact location of the proposed opening, the kind of paving, the area and depth to be excavated, and

such other facts as may be provided for. The permit shall be issued only after a cash deposit sufficient to cover the cost of restoration has been posted with the authorized city official, conditioned upon prompt and satisfactory refilling of excavations and restoration of all surfaces disturbed.
(Am. Ord. 062409, passed 6-24-09)

§ 91.17 RESTORATION OF PAVEMENT.

(A) The opening and restoration of a pavement or other surface shall be performed under the direction and to the satisfaction of the authorized city official, and in accordance with rules, regulations, and specifications approved by the legislative body.

(B) Upon failure or refusal of the permittee satisfactorily to fill the excavation, restore the surface, and remove all excess materials within the time specified in the permit or where not specified therein, within a reasonable time after commencement of the work, the city may proceed without notice to make such fill and restoration and the deposit referred to in § 91.16 shall be forfeited. Thereupon the deposit shall be paid into the appropriate city fund, except such part demanded and paid to the permittee as the difference between the deposit and the charges of the city for restoration services performed by it. If the amount of such services performed by the city should exceed the amount of the deposit, the Clerk or other proper administrative officer shall proceed to collect the remainder due from the permittee.
(Am. Ord. 062409, passed 6-24-09)

§ 91.18 BARRIERS AROUND EXCAVATIONS.

Any person engaged in or employing others in excavating or opening any street, sidewalk, alley, or other public way shall have the excavation or opening fully barricaded at all times to prevent injury to persons or animals.
(Am. Ord. 062409, passed 6-24-09) Penalty, see § 91.99

§ 91.19 WARNING LIGHTS.

Any person engaged in or employing others in excavating or otherwise in any manner obstructing a portion or all of any street, sidewalk, alley, or other public way, at all times during the night season shall install and maintain at least two illuminated red lamps which shall be securely and conspicuously posted on, at, or near each end of the obstruction or excavation, and if the space involved exceeds 50 feet in extent, at least one additional lamp for each added 50 feet or portion thereof excavated or obstructed.
(Am. Ord. 062409, passed 6-24-09) Penalty, see § 91.99

§ 91.20 SIDEWALK CONSTRUCTION.

It shall be the duty of the authorized city official to supervise construction or repair of sidewalks within the city. He shall cause specifications to be prepared for the construction of the various kinds of pavements and transmit the specifications to the legislative body for approval. When the specifications are approved, the legislative body shall advertise for proposals to do all the work which may be ordered by the city in construction and repair of sidewalks, and shall authorize the Mayor to contract therefor, for a period not exceeding one year, with the lowest responsible bidder, who shall for the faithful performance of the work. The Mayor, if authorized by City Council, may make separate contracts for the different kinds of work with different parties.

(Am. Ord. 062409, passed 6-24-09)

Statutory reference:

Sidewalks; construction along public roads; specifications, see KRS 178.290

Sidewalks; ramps for wheelchairs, see KRS 66.660

ROAD AND BRIDGE PROJECTS**§ 91.35 PUBLIC HEARING REQUIRED.**

Before the city expends state derived tax revenues on a municipal highway, road, street, or bridge it shall hold a hearing in accordance with the provisions of this subchapter to take the sense of the public with regard to the project and to priorities for use of tax moneys for road and bridge purposes.

(Am. Ord. 062409, passed 6-24-09) (KRS 174.100)

§ 91.36 NOTICE REQUIREMENTS.

Prior to the contemplated date of expenditure of state derived tax revenues on a road or bridge by the city, the city shall hold a public hearing for the purpose of taking the sense of the public with regard to road and bridge matters within the city. Notice of the hearing shall be given not less than seven days nor more than 21 days before the scheduled date of the public hearing and before beginning work on any project covered by this subchapter.

(Am. Ord. 062409, passed 6-24-09) (KRS 174.100 (1))

§ 91.37 PUBLIC MAY TESTIFY; EFFECT OF TESTIMONY.

(A) At the hearing any person may speak with regard to any proposed project, any project which he feels should be built or done which has not been proposed, priorities for completion of projects, and any other matter related to road or bridge projects.

(B) The city shall not be bound by the testimony heard at the hearing but shall give due consideration to it.

(Am. Ord. 062409, passed 6-24-09) (KRS 174.100 (2),(3))

§ 91.38 HEARING TO BE HELD PRIOR TO CONSTRUCTION.

The city shall not begin construction on a road or bridge project wherein state derived tax revenues are involved until the hearing as provided herein has been held.

(Am. Ord. 062409, passed 6-24-09) (KRS 174.100 (4))

§ 91.39 SEPARATE HEARING FOR EACH PROJECT NOT REQUIRED.

This subchapter shall not be construed to require a separate hearing for each project. A single hearing encompassing the entire road and bridge program, provided all projects subsequently undertaken have been identified at the hearing, shall meet the requirements of this subchapter.
(Am. Ord. 062409, passed 6-24-09) (KRS 174.100 (5))

§ 91.40 EXEMPTIONS FROM HEARING REQUIREMENT.

(A) The provisions of this subchapter shall not apply to emergency repair or replacement of roads or bridges necessitated by natural or man-caused disasters nor to street cleaning or snow removal operations.

(B) The provisions of this subchapter shall not apply to projects which are under construction as of the effective date of this subchapter unless construction is suspended after the effective date of this subchapter and the city desires to reactivate the project.
(Am. Ord. 062409, passed 6-24-09) (KRS 174.100 (6),(7))

OBSTRUCTIONS

§ 91.55 UNLOADING ON STREET OR SIDEWALK.

No person shall unload any heavy material in the streets of the city by throwing or letting the material fall upon the pavement of any street, alley, sidewalk, or other public way, without first placing some sufficient protection over the pavement.
(Am. Ord. 062409, passed 6-24-09) Penalty, see § 91.99

§ 91.56 STREET AND SIDEWALK OBSTRUCTION.

No person shall obstruct any street, alley, sidewalk, or other public way within the city by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any fence or building is permitted to remain upon the public way shall constitute a separate offense.
(Am. Ord. 062409, passed 6-24-09) Penalty, see § 91.99

§ 91.57 MATERIALS ON STREET OR SIDEWALK.

No person shall encumber any street or sidewalk. No owner, occupant, or person having the care of any building or lot of land, bordering on any street or sidewalk, shall permit it to be encumbered with barrels, boxes, cans, articles, or substances of any kind, so as to interfere with the free and unobstructed use thereof.

(Am. Ord. 062409, passed 6-24-09) Penalty, see § 91.99

Cross-reference:

Littering on streets or sidewalks, see Chapter 94

§ 91.58 REMOVAL OF ICE AND SNOW.

It shall be the duty of the owner or of the occupant of each and every parcel of real estate in the city abutting upon any sidewalk to keep the sidewalk abutting his premises free and clear of snow and ice to the extent feasible under the prevailing weather conditions, and to remove therefrom all snow and ice, to the extent feasible under the prevailing weather conditions, a reasonable time which will ordinarily not exceed 12 hours after the abatement of any storm during which the snow and ice may have accumulated.

(Am. Ord. 062409, passed 6-24-09) Penalty, see § 91.99

§ 91.59 ACCUMULATION OF MUD, DIRT AND THE LIKE ON STREET OR SIDEWALK.

(A) It shall be unlawful for any person, firm, company or corporation to dig, drain, excavate, level, or grade any lot or ground, or to build up any mounds or embankments, or to fill in on such lots or grounds, in either case, to such extent and in such manner as to cause water, mud or dirt from such digging, draining, excavating, leveling or grading, or building up of such mounds or embankments to run, flow, or be upon any of the streets, sidewalks or passways of the city.

(B) In case such digging, draining, excavating, leveling or grading, or the building up of any mounds or embankments in the city as defined in division (A) of this section has been done prior to the enactment of this section and by reason of which water, mud or dirt does now or may hereafter run, flow, accumulate or be upon any of the streets, sidewalks, or passways of the city, it shall be unlawful for such person, firm, company or corporation to allow or permit such water, mud or dirt to continue to run, flow, accumulate or be upon such streets, sidewalks and passways of the city.

(Ord. 1940-2, passed - -40; Am. Ord. 062409, passed 6-24-09) Penalty, see § 91.99

§ 91.60 DISPLAY OF MERCHANDISE ON STREETS AND SIDEWALKS.

No person shall use or obstruct, either partially or wholly, any pavement or sidewalk in the city, by placing thereon goods, wares, merchandise, soft-drink dispensers or any other type of vending machine.

(Ord. passed 4-12-66; Am. Ord. 062409, passed 6-24-09) Penalty, see § 91.99

§ 91.61 TRASH AND RUBBISH RECEPTACLES.

It shall be unlawful to put or cause to be placed on the streets or sidewalks of the city any box, streets and sidewalks tank, or other receptacle for the purpose of depositing trash or rubbish of any nature. However, this section shall not apply to any person who shall use metal covered tank for such purpose, provided that such person shall keep such metal covered tank off the streets and sidewalks of the city except between the hours of 6:00 a.m. and 10:00 a.m. during which time the tank may be placed on the outer edge of the sidewalk in order that the contents thereof may be collected and hauled away by the city employees.

(Ord. passed 4-12-66; Am. Ord. 062409, passed 6-24-09) Penalty, see § 91.99

§ 91.62 DAMAGING STREETS AND SIDEWALKS.

It shall be unlawful to damage or cause to be damaged any city street or sidewalk within the city. (Ord. passed 4-12-66; Am. Ord. 062409, passed 6-24-09) Penalty, see § 91.99

§ 91.63 STREETS, SIDEWALKS AND PUBLIC WAYS.

(A) No person shall place, throw, deposit, or allow to accumulate on any street, alley, sidewalk, gutter, storm sewer, drainage ditch, or any other public right-of-way, easement or public property, any junk motor vehicles, junk machinery, tires or parts, rubbish, wastepaper, fruit peelings or rinds, dirt, ashes, rocks, house sweepings, garbage, filth, dead fowl or animals, grass clippings, weeds, leaves, tree or shrubbery trimmings or any material resulting from maintenance, demolition, repair, alteration or construction of buildings, structures or grounds, including any slop, impure water or liquid of any kind, except for premises authorized by the city for such purposes.

(B) The presence of such liquids or substance described herein above in or upon any street, alley, sidewalk, gutter, storm sewer or drainage ditch, or any public right-of-way or easement or property shall constitute a nuisance and is a violation of this subchapter.

(Ord. 062409, passed 6-24-09)

STATE OR FEDERAL MAINTAINED HIGHWAYS

§ 91.75 MAINTENANCE AGREEMENTS.

Whenever the Commissioner of Highways of the Commonwealth of Kentucky, by authority of KRS 177.041 through 177.047 inclusive designates any streets or portions thereof, including viaducts and bridges, as connecting links of state or federal maintained highways, or necessary feeder streets thereto and thereby undertakes the future maintenance, repair, construction or reconstruction of such streets,

bridges or viaducts in the manner provided by the aforesaid statutes, the Mayor is hereby expressly authorized, instructed and directed to enter into any and all contracts and agreements with the Department of Highways necessary to carry out the purposes and provisions of the statutes. (Ord. 1959-2, passed - -59; Am. Ord. 062409, passed 6-24-09)

HOUSE NUMBERING

§ 91.85 HOUSE NUMBERING REGULATIONS.

(A) *House numbering regulations.* The owner or occupant or person in charge of any house, building, mobile home or other structure to which a number has been assigned shall:

(1) Within 30 days after the receipt of such number affix the number in a conspicuous manner in a conspicuous place.

(2) Within 30 days remove any different number which might be mistaken for or confused with the number assigned to the structure by the issuing authority.

(3) Each principal building or structure shall display the number assigned to the frontage on which the front entrance is located. In case the principle building or structure is occupied by more than one business or family dwelling unit, each separate front entrance may display a separate number.

(4) Numerals indicating the official number for each principal building or each front entrance to such building shall be posted in a manner as to be legible and distinguishable from the street or road on which the property is located, with numbers applied, of not less than three inches in height.

(5) Mail boxes shall be marked with the house or business number.

(6) If the structure is not visible from the street or road on which it is located and no mailbox is beside the driveway leading to the structure, a sign or number shall be erected to display the number which may be displayed either vertically from the top down or horizontally.

(B) *Addresses for new structures or relocated mobile homes.* All persons, firms, corporations and other legal entities constructing new structures or locating or relocating mobile homes in the city shall from and after this date obtain an address notification form duly issued by the addressing authority.

(1) All applicants shall apply for the address notification form with the city's 911 Coordinator. The 911 Coordinator will furnish the applicant with a copy to present to the United States Post Office.

(2) Immediately upon the filing of the address notification form, the 911 Coordinator shall assign a number and address to the structure.

(C) *Violation.* In the event that the owner or occupant or person in charge of any house or building refuses to comply with the terms of this section by failing to affix the number assigned within 30 days after notification, or by failing to remove any old numbers affixed to such house or structure, or house entrance, or elsewhere, which may be confused with the number assigned thereto, they shall be punished as set forth in § 91.99.

(D) *Purpose.* This section is limited to structures inside the corporate limits of Jackson, Kentucky and is the purpose of the establishment and maintenance of the Jackson, Breathitt County Enhanced 911 Emergency Response System for the city.

(Ord. 031095, passed 3-10-95; Am. Ord. 062409, passed 6-24-09) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) Whoever violates any provision of this chapter shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than \$500.

(B) Any person who shall continue any violation of § 91.01 beyond the time limit provided for in § 91.01(B) shall be guilty of a misdemeanor, and on conviction thereof shall be fined in an amount not to exceed \$500 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense. (Ord. 711771, passed 7-11-77)

(C) Any person who shall violate any provision of § 91.85(C) shall be punished by paying a fine of not less than \$10 for every day that the situation is not rectified. (Ord. 031095, passed 3-10-95) (Am. Ord. 062409, passed 6-24-09)

CHAPTER 92: NUISANCES

Section

- 92.01 Definitions
- 92.02 Common law and statutory nuisances
- 92.03 Certain conditions declared a nuisance
- 92.04 Abatement procedure
- 92.05 Nuisance created by others
- 92.06 Suspension of license
- 92.07 Loading or unloading of hazardous material; Mayor to be notified
- 92.08 Storage of junk motor vehicles
- 92.09 Enforcement
- 92.10 Duties and responsibilities

- 92.99 Penalty

Statutory reference:

Private nuisances, see KRS 411.500 - 411.570

§ 92.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTOMOBILE PARTS. Any portion or parts of any motor driven vehicle as detached from the vehicle as a whole.

INOPERATIVE CONDITION. Unable to move under its own power due to defective or missing parts, and which has remained in such condition for a period of not less than ten consecutive days.

MOTOR VEHICLE. Any style or type of motor driven vehicle used for the conveyance of persons or property.

PUBLIC NUISANCE. Any act, thing, occupation, condition or use of property which shall continue for such a length of time as to:

- (1) Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public;
- (2) Unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, sidewalk, stream, ditch or drainage; or

(3) Essentially interfere with the comfortable enjoyment of life and property, or tend to depreciate the value of property of others.

SCRAP METAL. Pieces or parts of steel, iron, tin, zinc, copper, aluminum, or any alloy thereof, whether covered with porcelain or any other material, whether intact or in parts, which has served its usefulness in its original form and can no longer be used for its originally intended purpose.

UNFIT FOR FURTHER USE. In a dangerous condition; having defective or missing parts; or in such a condition generally as to be unfit for further use as a conveyance.
(Am. Ord. 062409, passed 6-24-09)

§ 92.02 COMMON LAW AND STATUTORY NUISANCES.

In addition to what is declared in this chapter to be a public nuisance, those offenses which are known to the common law and statutes of Kentucky as public nuisances may be treated as such and be proceeded against as is provided in this chapter or in accordance with any other provision of law.
(Am. Ord. 062409, passed 6-24-09) Penalty, see § 92.99

§ 92.03 CERTAIN CONDITIONS DECLARED A NUISANCE.

It shall be unlawful for the owner, occupant, or person having control or management of any land within the city to permit public nuisances to develop thereon. The following conditions are declared to be public nuisances:

(A) *Dangerous trees or stacks adjoining street.* Any tree, stack, or other object standing in such a condition that it will, if the condition is allowed to continue, endanger the life, limb, or property of, or cause hurt, damage, or injury to persons or property within the city.

(B) *Accumulation of rubbish.* Any accumulation on any premises of filth, refuse, trash, garbage, or other waste material which endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property because of the danger that it will catch or communicate fire, attract and propagate vermin, rodents, or insects, or blow rubbish into any street, sidewalk, or property of another within the city.

(C) *Storage of explosives.* The storage of explosive material which creates a safety hazard to other property or persons in the vicinity within the city.

(D) *The excessive growth of weeds, grass, or other vegetation.* Unless otherwise provided, **EXCESSIVE** shall mean growth to a height of 12 inches or more.

(E) *Open wells.* The maintenance of any open, uncovered, or insecurely covered cistern, cellar, well, pit, excavation, or vault situated upon premises in the city, in any open or unfenced lot or place.

(F) *Trees and shrubbery obstructing streets, sidewalks, and drainage.* The growing and maintenance of trees or shrubbery which in any way interferes with the use, construction, or maintenance of streets or sidewalks, causes injury to streets or sidewalks, or constitutes an obstruction to drainage.

(G) *Keeping of animals.* The failure to keep an animal's pen, yard, lot, or other enclosure in a sanitary condition and free from preventable offensive odors.

(H) *Dilapidated buildings.* Those dwellings, or buildings, which have been damaged by fire, wind or those which have become or are so dilapidated, decayed, unsafe, unsanitary, vermin-infested or obsolete that they are likely to cause sickness or disease or injury to the health, morals, safety or general welfare of the persons living therein or of the people at large or other causes so as to no longer provide shelter from the elements and which have become dangerous to the life, safety, morals, or general health and welfare of the occupants or residents of the city.

(Ord. 051899, passed 5-18-99; Am. Ord. 062409, passed 6-24-09) Penalty, see § 92.99

§ 92.04 ABATEMENT PROCEDURE.

(A) It shall be unlawful for the owner, occupant, or person having control or management of any land within the city to permit a public nuisance, health hazard or source of filth to develop thereon. Notification involving streets, sidewalks, and public ways shall be sent to the property owner, occupant if known, or other person having control or management of the premises or property adjacent to or fronting the street, sidewalk or public way.

(B) Whenever a nuisance situation is discovered, the authorized city official shall give five days written notice to remedy the nuisance situation. The notice shall be mailed to the last known address of the owner of the property, as it appears on the current tax assessment roll. Upon the failure of the owner of the property to comply, the authorized city official is authorized to send employees upon the property to remedy the situation. The costs to the city of abatement will be charged to the owner and a lien imposed by the city for those costs. Upon the failure of the owner of the property to comply, the appropriate city official is authorized to send employees or authorized agents of the city upon the property to remedy the situation and to abate the nuisance.

(C) The city shall have a lien against the property for the reasonable value of labor and materials used in remedying the nuisance situation, the civil penalty assessed and any legal expenses it may incur, but said lien shall in no event be for less than \$150. The affidavit of the authorized city official shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to Kentucky Revised Statutes and this section, and shall be recorded in the office of the County Clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest at 12% per annum thereafter until paid. The lien created shall take precedence over all other subsequent liens, except state, county, school board, and city taxes, and may be enforced by judicial proceeding. In addition to this remedy or any other remedy authorized by law, the owner of a property upon which a lien has been attached pursuant to this section shall be personally liable for the amount of the lien, including all interest, civil penalties, and other charges, and the city may bring a civil action against the owner and

shall have the same remedies as provided for the recovery of a debt owed. In any action to enforce this lien, the responsible person or property owner shall also be liable for recording fees, court costs and reasonable attorney's fees. The City Attorney is hereby authorized and directed to institute any necessary proceedings in the name of the city to enforce this chapter.

(Am. Ord. 062409, passed 6-24-09)

§ 92.05 NUISANCE CREATED BY OTHERS.

For the purposes of this chapter, it shall not be essential that the nuisance be created or contributed to by the owner, occupant, or person having control or management of the premises, but merely that the nuisance be created or contributed to by licensees, invitees, guests, or other persons for whose conduct the owner or operator is responsible, but by the exercise of reasonable care ought to have become aware of.

(Am. Ord. 062409, passed 6-24-09)

§ 92.06 SUSPENSION OF LICENSE.

(A) Whenever it is shown that a nuisance is associated with or caused by the conduct of a business or activity licensed by the city and that the existence of the nuisance presents an immediate threat to the public health, safety, or welfare, the City Council may suspend the license of the person or persons conducting the business or activity.

(B) The City Clerk shall cause a notice of the suspension to be served personally upon the licensee, or upon any responsible agent of the licensee, at the premises where the licensed business or activity is being conducted. The notice shall clearly inform the licensee of the reason for the suspension, and the conditions that must be met for the suspension to be removed.

(C) Upon application of the licensee, and upon a showing that the nuisance has been satisfactorily abated and that any other reasonable conditions set forth in the notice have been met, the City Council may remove the suspension.

(Am. Ord. 062409, passed 6-24-09)

§ 92.07 LOADING OR UNLOADING OF HAZARDOUS MATERIAL; MAYOR TO BE NOTIFIED.

(A) The Mayor's office of the city shall be notified 24 hours in advance of any loading, off loading, or unloading of any hazardous material or hazardous waste, and flammable material, substance or liquid, any explosive material, substance or liquid or any material, substance or liquid which will emit noxious or poisonous fumes.

(B) The transporter and the receiver of the above described substances, liquids or materials shall be responsible for notifying the Mayor's office as set forth in division (A) above.

(C) This section shall not apply to gasoline, diesel fuel, heating oil, crude oil and other related petroleum products.

(Ord. 061588, passed 6-15-88; Am. Ord. 062409, passed 6-24-09) Penalty, see § 92.99

§ 92.08 STORAGE OF JUNK MOTOR VEHICLES.

It is declared to be a nuisance to permit a junked, rusted, wrecked, abandoned, discharged, dismantled, partially dismantled, immobile or otherwise nonoperating motor vehicle to be parked or allowed to remain on any private or public property zoned residential within the city longer than seven calendar days. This section shall not apply to historic motor vehicles registered and licensed pursuant to KRS 186.043, or to any vehicle in an enclosed building. Not more than five such vehicles shall be kept on all other zoned agriculture and not more than two such vehicles shall be kept on all other zone classifications other than those zones authorized to keep such vehicles, unless contained within an approved enclosed building. A motor vehicle is covered by this section if it does not have lawfully affixed thereto an unexpired license. A motor vehicle is also covered by this section if it is inoperative and remains in an inoperative condition for more than seven calendar days whether or not it has an unexpired license.

(Ord. 062409, passed 6-24-09)

§ 92.09 ENFORCEMENT.

This chapter shall be enforced by any law enforcement officer for the City of Jackson, Director of the Department of Housing and Community Development, any duly authorized Building Inspector or Codes Enforcement Officer for the city or the City-County Planning Commission and any other person authorized by the city. In addition, pursuant to KRS 83A.087, there are hereby authorized citation officers. The city may create such positions by ordinance or may contract such services. Citation officers shall not have the powers of peace officers to arrest or carry weapons but may issue citations as authorized upon observation of violations of this chapter. Nothing in this section shall be a limitation in the power of a citation officer to make an arrest as a private person as provided in KRS 431.005. In addition, the city and any enforcement officer may enforce the preceding sections by injunction and all other remedies available under common and statutory law in effect at the time of the notice of violation.

(Ord. 062409, passed 6-24-09)

§ 92.10 DUTIES AND RESPONSIBILITIES.

The City of Jackson, City Council shall appoint an enforcement officer and they shall be responsible for the oversight of the ordinance until a five-person board is recommended by the Mayor and appointed by the Council.

(Ord. 062409, passed 6-24-09)

§ 92.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500 for each offense. Each day's continued violation shall constitute a separate offense. (Am. Ord. 062409, passed 6-24-09)

CHAPTER 93: FIREWORKS; FIRE PREVENTION

Section

Fireworks

- 93.01 Definitions; legality of items
- 93.02 Sale or use prohibited; exception for public display
- 93.03 Common fireworks; restrictions on sale
- 93.04 Bond or liability insurance requirement
- 93.05 Exempted sales and uses
- 93.06 Destruction of fireworks

Fire Prevention

- 93.20 Blasting permit
- 93.21 Storage of flammables and other matter
- 93.22 Extension of fire district; annual fees
- 93.23 State Fire Prevention Code adopted

- 93.99 Penalty

FIREWORKS

§ 93.01 DEFINITIONS; LEGALITY OF ITEMS.

(A) As used in KRS 227.700 to 227.750, ***FIREWORKS*** means any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of "consumer fireworks" as defined in KRS 227.702 or "display" fireworks as defined in KRS 227.706 and as set forth in the U.S. Department of Transportation's (DOT) hazardous materials regulations. ***FIREWORKS*** does not include:

(1) Exception number 1: Toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps manufactured in accordance with DOT regulations, and packed and shipped according to said regulations, are not considered to be fireworks and shall be allowed to be used and sold at all times.

(2) Exception number 2: Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models are not considered to be fireworks.

(3) Exception number 3: Propelling or expelling charges consisting of a mixture of sulfur, charcoal, and saltpeter are not considered as being designed for producing audible effects.
(KRS 227.700)

(B) As used in KRS 227.700 to 227.750, "consumer fireworks" means fireworks that are suitable for use by the public, designed primarily to produce visible effects by combustion, and that comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission. The types, sizes, and amount of pyrotechnic contents of these devices are limited as enumerated in this section. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing 50 mg. or less of explosive composition, and aerial devices containing 130 mg. or less of explosive composition. Consumer fireworks are further defined by the Consumer Product Safety Commission in CPSC, 16 C.F.R. pts. 1500 and 1507, are classified as Division 1.4G explosives by the United States Department of Transportation, and include the following:

(1) Ground and hand-held sparkling devices.

(a) Dipped stick-sparkler or wire sparkler. These devices consist of a metal wire or wood dowel that has been coated with pyrotechnic composition. Upon ignition of the tip of the device, a shower of sparks is produced. Sparklers may contain up to 100 grams of pyrotechnic composition per item. Those devices containing any perchlorate or chlorate salts may not exceed five grams of pyrotechnic composition per item. Wire sparklers which contain no magnesium and which contain less than 100 grams of composition per item are not included in this category, in accordance with DOT regulations;

(b) Cylindrical fountain. Cylindrical tube containing not more than 75 grams of pyrotechnic composition. Upon ignition, a shower of colored sparks, and sometimes a whistling effect or smoke, is produced. This device may be provided with a spike for insertion into the ground (spike fountain), a wood or plastic base for placing on the ground (base fountain), or a wood or cardboard handle, if intended to be hand-held (handle fountain). When more than one tube is mounted on a common base, total pyrotechnic composition may not exceed 200 grams, or 500 grams if the tubes are separated from each other on the base by a distance of at least one-half inch;

(c) Cone fountain. Cardboard or heavy paper cone containing up to 50 grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain. When more than one cone is mounted on a common base, the total pyrotechnic composition may not exceed 200 grams, or 500 grams if the tubes are separated from each other on the base by a distance of at least one-half inch;

(d) Illuminating torch. Cylindrical tube containing up to 100 grams of pyrotechnic composition. Upon ignition, colored fire is produced. May be spike, base or hand-held. When more than one tube is mounted on a common base, total pyrotechnic composition may not exceed 200 grams, or 500 grams if the tubes are separated from each other on the base by a distance of at least one-half inch;

(e) Wheel. A device attached to a post or tree by means of a nail or string. A wheel may have one or more drivers, each of which may contain not more than 60 grams of pyrotechnic composition. No wheel may contain more than 200 grams total pyrotechnic composition. Upon ignition, the wheel revolves, producing a shower of color and sparks and, sometimes, a whistling effect;

(f) Ground spinner. Small device containing not more than 20 grams of pyrotechnic composition, similar in operation to a wheel but intended to be placed on the ground and ignited. A shower of sparks and color is produced by the rapidly spinning device;

(g) Flitter sparkler. Narrow paper tube attached to a stick or wire and filled with not more than 100 grams of pyrotechnic composition that produces color and sparks upon ignition. The paper at one end of the tube is ignited to make the device function; and

(h) Toy smoke device. Small plastic or paper item containing not more than 100 grams of pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect;

(2) Aerial devices.

(a) Sky rockets and bottle rockets. Cylindrical tube containing not more than 20 grams of pyrotechnic composition. Sky rockets contain a wooden stick for guidance and stability and rise into the air upon ignition. A burst of color or noise or both is produced at the height of flight;

(b) Missile-type rocket. A device similar to a sky rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability;

(c) Helicopter, aerial spinner. A tube containing up to 20 grams of pyrotechnic composition. A propeller or blade is attached, which, upon ignition, lifts the rapidly spinning device into the air. A visible or audible effect is produced at the height of flight;

(d) Roman candles. Heavy paper or cardboard tube containing up to 20 grams of pyrotechnic composition. Upon ignition, up to ten "stars" (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several second intervals;

(e) Mine, shell. Heavy cardboard or paper tube usually attached to a wood or plastic base and containing up to 60 grams of total chemical composition (lift charge, burst charge, and visible or audible effect composition). Upon ignition, "stars," components producing reports containing up to 130 milligrams of explosive composition per report, or other devices are propelled into the air. The term "mine" refers to a device with no internal components containing a bursting charge, and the term "shell" refers to a device that propels a component that subsequently bursts open in the air. A mine or shell device may contain more than one tube provided the tubes fire in sequence upon ignition of one external fuse. The term "cake" refers to a dense-packed collection of mine or shell tubes. Total chemical composition including lift charges of any multiple tube devices may not exceed 200 grams. The maximum quantity of lift charge in any one tube of a mine or shell device shall not exceed 20 grams, and the maximum quantity of break or bursting charge in any component shall not exceed 25% of the total weight of chemical composition in the component. The tube remains on the ground; and

(f) Aerial shell kit, reloadable tube. A package kit containing a cardboard, high-density polyethylene (HDPE), or equivalent launching tube with multiple-shot aerial shells. Each aerial shell is limited to a maximum of 60 grams of total chemical composition (lift charge, burst charge, and visible or audible effect composition), and the maximum diameter of each shell shall not exceed one and three-fourths inches. In addition, the maximum quantity of lift charge in any shell shall not exceed 20 grams, and the maximum quantity of break or bursting charge in any shell shall not exceed 25% of the total weight of chemical composition in the shell. The total chemical composition of all the shells in a kit, including lift charge, shall not exceed 400 grams. The user lowers a shell into the launching tube, at the time of firing, with the fuse extending out of the top of the tube. After the firing, the tube is then reloaded with another shell for the next firing. All launching tubes shall be capable of firing twice the number of shells in the kit without failure of the tube. Each package of multiple-shot aerial shells must comply with all warning label requirements of the Consumer Product Safety Commission; and

(3) Audible ground devices.

(a) Firecrackers, salutes. Small paper-wrapped or cardboard tube containing not more than 50 mg. of pyrotechnic composition. Those used in aerial devices may contain not more than one hundred thirty (130) milligrams of explosive composition per report. Upon ignition, noise and a flash of light is produced; and

(b) Chaser. Small paper or cardboard tube that travels along the ground upon ignition. A whistling effect, or other noise, is often produced. The explosive composition used to create the noise may not exceed 50 mg.

(KRS 227.702)

(C) Items listed below are classified as **NOVELTIES** and **TRICK NOISEMAKERS** and are not classified as consumer fireworks by the U.S. Department of Transportation, and their transportation, storage, retail sale, possession, sale, and use shall be allowed throughout the state at all times.

(1) Snake, glow worm. Pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices may not contain mercuric thiocyanate.

(2) Smoke device. Tube or sphere containing pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(3) Wire sparkler. Wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. These items may not contain magnesium and must not exceed 100 grams of composition per item. Devices containing any chlorate or perchlorate salts may not exceed five grams of composition per item.

(4) Trick noisemaker. Item that produces a small report intended to surprise the user. These devices include:

(a) Party popper. Small plastic or paper item containing not more than 16 milligrams of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

(b) Booby trap. Small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.

(c) Snapper. Small, paper-wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes producing a small report.

(d) Trick match. Kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match a small report or a shower of sparks is produced.

(e) Cigarette load. Small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one of the pegs, a small report is produced.

(f) Auto burglar alarm. Tube which contains pyrotechnic composition that produces a loud whistle or smoke, or both, when ignited. A small quantity of explosive, not exceeding 50 milligrams may also be used to produce a small report. A squib is used to ignite the device.
(KRS 227.704)

(D) As used in KRS 227.700 to 227.750, "display fireworks" means pyrotechnic devices or large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, firecrackers containing more than two grains (130 milligrams) of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other display pieces which exceed the limits for classification as consumer fireworks. Display fireworks are defined by the Consumer Product Safety Commission in CPSC, 16 C.F.R. Pts. 1500 and 1507, and are classified as class B explosives by the U.S. Department of Transportation.
(KRS 227.706)

(E) Legality of items.

(1) Items described in division (B) above are legal for retail sale provided all applicable federal and state requirements with respect thereto are met.

(2) Items described in division (D) are not legal for retail sale but are legal under permits granted pursuant to this chapter for the purposes specified in this chapter for public displays and may be sold at wholesale as provided in this chapter.

(3) Items described in division (C) are legal for retail sale provided all applicable federal and state requirements with respect thereto are met.
(KRS 227.708)

§ 93.02 SALE OR USE PROHIBITED; EXCEPTION FOR PUBLIC DISPLAY.

No person, firm, co-partnership, or corporation shall offer for sale, expose for sale, sell at retail, keep with intent to sell, possess, use, or explode, any display fireworks, except for the following:

(A) (1) The Chief of the Fire Department or other authorized city official may grant permits for supervised public displays of fireworks by the city, fair associations, amusement parks, and other organizations or groups of individuals.

(2) Every display shall be handled by a competent display operator to be approved by the public official by whom the permit is granted, and shall be of such character, and so located, discharged or fired as in the opinion of the official, after proper inspection, to not be hazardous to property or endanger any person.

(3) "Competent display operator" shall be defined as the person with overall responsibility for the operation and safety of a fireworks display. The competent display operator shall have a Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) License and have participated as an assistant in firing at least five public displays. A "competent display operator" is also an employee possessor. A permit under division (A)(1) shall be issued only to a competent display operator holding an ATF license.

(4) At least one competent display operator shall be on site during display set-up and firing. This competent display operator shall maintain a copy of the permit application, as signed by the local authority having jurisdiction as identified in this section, on site and at all times the display is in place, and shall be presented on demand of the State Fire Marshal or local fire chief. All public displays that require issuance of a permit shall be conducted in accordance with the provisions of National Fire Protection Association (NFPA) 1123 – Code for Fireworks Display (adopted edition).

(5) Permits shall be filed with the State Fire Marshal at least 15 days in advance of the date of the display. After the privilege is granted, sales, possession, use and distribution of fireworks for the display shall be lawful for that purpose only. No permit granted under this division shall be transferable. For the purposes of this division (A), **PUBLIC DISPLAY OF FIREWORKS** shall include the use of pyrotechnic devices or pyrotechnic materials before a proximate audience, whether indoors or outdoors.

(6) Any person remaining within the display area shall be identified as licensed by the ATF, or an employee thereof, or be an assistant in training to become a competent display operator. All persons remaining within the display area shall be at least 18 years of age.

(7) The Commissioner of the Department of Housing, Buildings and Construction with recommendation from the State Fire Marshal shall promulgate administrative regulations in accordance with KRS Chapter 13A to administer the provisions of this subsection. The regulations shall address the process by which permits are issued and any other procedures that are reasonably necessary to effectuate this division.

(B) The sale, at wholesale, of any display fireworks for permitted displays by any resident manufacturer, wholesaler, dealer, or jobber, in accordance with regulations of the U.S. Bureau of Alcohol, Tobacco, and Firearms, and Explosives if the sale is to the person holding a display permit as outlined in division (A) of this section. The permit holder shall present the permit along with other verifiable identification at the time of sale.

(C) The sale of display fireworks in accordance with a license issued by the United States Bureau of Alcohol, Tobacco, Firearms and Explosives.

(D) The sale and use in emergency situations of pyrotechnic signaling devices and distress signals for marine, aviation, and highway use.

(E) The use of fuses and railway torpedoes by railroads.

(F) The sale and use of blank cartridges for use in a show or theater or for signal or ceremonial purpose in athletics or sports.

(G) The use of any pyrotechnic device by military organizations.

(H) The use of fireworks for agricultural purposes under the direct supervision of the U.S. Department of the Interior or any equivalent or local agency.

(I) Nothing in this section shall prohibit a person, firm, co-partnership, non-profit, or corporation from offering for sale, exposing for sale, selling at retail, keeping with intent to sell, possessing or using consumer fireworks as defined in KRS 227.702 and as permitted pursuant to KRS 227.715.
(KRS 227.710) Penalty, see § 93.99

§ 93.03 COMMON FIREWORKS; RESTRICTIONS ON SALE.

(A) Except as provided in § 93.02, the consumer fireworks described in § 93.01(B) may be offered for sale, sold at retail, or kept with the intent to sell, only if the requirements of this section are met.

(B) Any person or business intending to sell common fireworks shall register annually with the State Fire Marshal in accordance with KRS 227.715, and display its registration certificate in a conspicuous location at the site.

(C) Each site at which fireworks are offered for sale shall comply with all applicable provisions of the International Building Code, with Kentucky Amendments (adopted edition), and NFPA 1124 (National Fire Protection Association) – Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles (adopted edition).

(D) No person or business shall give, offer for sale, or sell any consumer fireworks listed in § 93.01(B) to any person under 18 years of age.
(KRS 227.715(6) - (8)) Penalty, see § 93.99

§ 93.04 BOND OR LIABILITY INSURANCE REQUIREMENT.

No permit shall be issued under § 93.02 unless the applicant shall give bond or evidence of liability insurance deemed adequate by the official to whom application for the permit is made, in a sum not less than \$1,000,000. However, the appropriate city official or the State Fire Marshal may require a larger amount if in their judgment the situation requires it, conditioned for the payment of all damages which may be caused thereby either to a person or to property by reason of the permitted display, and arising from any acts of the licensee, his or her agents, employees or subcontractors.

(KRS 227.720) Penalty, see § 93.99

§ 93.05 EXEMPTED SALES AND USES.

Nothing in this chapter shall prevent the retail sale and use of explosives or signaling flares used in the course of ordinary business or industry, or gold star producing sparklers, which contain no magnesium or chlorate, toy snakes which contain no mercury, smoke novelties and party novelties, which contain less than twenty-five hundredths of a grain of explosive mixture, or shells or cartridges, used as ammunition in firearms, or blank cartridges for a show or theatre, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations, or the sale of any kind of fireworks provided the same are to be shipped by the seller directly out of the state.

(KRS 227.730)

§ 93.06 DESTRUCTION OF FIREWORKS.

(A) The State Fire Marshal, or any fire department having jurisdiction which has been deputized to act on behalf of the State Fire Marshal, shall cause to be removed at the expense of the owner all stocks of fireworks which are stored and held in violation of this chapter. After a period of 60 days, the seized fireworks may be offered for sale by closed bid to a properly certified fireworks wholesaler.

(B) After a period of 60 days, the seized fireworks may be offered for sale by closed bid to a properly certified manufacturer, distributor, or wholesaler. All seized fireworks or explosives with a Class 1.3G or "display" designation shall require the notification of the United States Bureau of Alcohol, Tobacco and Firearms. The State Fire Marshal shall provide the owner or possessor a receipt containing the complete inventory of any fireworks seized within five business days of the seizure.

(C) Before any seized fireworks may be disposed of:

(1) If the owner of the seized fireworks is known to the State Fire Marshal, the State Fire Marshal shall give notice by registered mail or personal service to the owner of the State Fire Marshal's intention to dispose of the fireworks. The notice shall inform the owner of the State Fire Marshal's intent. The State Fire Marshal shall conduct an administrative hearing in accordance with KRS Chapter 13B concerning the disposal of fireworks; or

(2) If the identity of the owner of any seized fireworks is not known to the State Fire Marshal, the State Fire Marshal shall cause to be published, in a newspaper of general circulation in the county in which the seizure was made, notice of the seizure, and of the State Fire Marshal's intention to dispose of the fireworks. The notice shall be published once each week for three consecutive weeks. If no person claims ownership of the fireworks within ten days of the date of the last publication, the State Fire Marshal may proceed with disposal of the fireworks. If the owner does claim the fireworks within ten days of the date of the last publication, a hearing as set out in division (C)(1) shall be held.

(D) Nothing in KRS 227.700 to 227.750 shall restrict a local government from enacting ordinances that affect the sale or use of fireworks within their jurisdiction
(KRS 227.750)

FIRE PREVENTION

§ 93.20 BLASTING PERMIT.

No person shall cause a blast to occur within the city without making application in writing beforehand, setting forth the exact nature of the intended operation, and receiving a permit to blast from the authorized city official. The authorized city official, before granting such permit may require the applicant to provide a bond to indemnify the city and all other persons against injury or damages which might result from the proposed blasting.

Penalty, see § 93.99

§ 93.21 STORAGE OF FLAMMABLES AND OTHER MATTER.

(A) All flammable or combustible materials shall be arranged and stored in a manner which affords reasonable safety against the danger of fire.

(B) Waste paper, ashes, oil rags, waste rags, excelsior, or any material of a similar hazardous nature shall not be accumulated in any cellar or any other portion of any building of any kind. Proper fireproof receptacles shall be provided for such hazardous materials.

(C) No matter shall be stored or arranged in a manner which impedes or prevents access to or exit from any premises in case of fire.

Penalty, see § 93.99

§ 93.22 EXTENSION OF FIRE DISTRICT; ANNUAL FEES.

(A) The Fire District of the city is hereby extended by a distance of five driving miles on all accessible drivable roads from our present city limits.

(B) Coverage for individual residents and businesses will require an annual fee set by the City Council, which is to be reviewed by the City Council annually.

(C) Annual fees collected are to be used for the Fire Department only.

(D) Rates are to be kept as low and reasonable as possible, allowing for payment of and purchases of equipment used by the Fire Department.

(Ord. 10785, passed 10-7-85)

§ 93.23 STATE FIRE PREVENTION CODE ADOPTED BY REFERENCE.

(A) The Kentucky Standards of Safety (Fire Prevention Code), as promulgated in 815 KAR 10:040 by the Commissioner of the Department of Housing, Buildings and Construction on the advice and recommendation of the State Fire Marshal, is adopted in full as part of this code. Copies of the Fire Prevention Code are available through the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky 40601.

(B) There shall be designated a local enforcement agent/agency for the Standards of Safety by the city.

(C) The requirements for permits and required fees shall be provided for in a comprehensive schedule.

(D) All final decisions of the fire code official of the city shall be appealable to a local appeals board pursuant to the procedures adopted by the city.

(Ord. 062791-B, passed 6-27-91)

Editor's note:

Copies of the permit requirements, fee schedule, and appeals procedure are available for public inspection at the office of the City Clerk.

§ 93.99 PENALTY.

(A) Any person violating the provisions of §§ 93.02 or 93.04, the regulations issued thereunder or any order issued thereunder, or who knowingly induces another, directly or indirectly, to violate the provisions of those sections, shall be guilty of a misdemeanor and shall be fined not more than \$1,000, or imprisoned for not more than 30 days, or both. (KRS 227.990 (4))

(B) Any person who violates any other provision of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500.

CHAPTER 94: CIVIL DEFENSE AND DISASTER RELIEF

Section

- 94.01 Definition
- 94.02 Civil Defense Director; powers and duties
- 94.03 Civil Defense Unit; divisions
- 94.04 Volunteers
- 94.05 Prohibitions

- 94.99 Penalty

§ 94.01 DEFINITION.

CIVIL DEFENSE. Includes measures necessary to provide for the mobilization, organization, and direction of civilian populace and necessary support agencies to prevent or minimize the effects of fire, flood, storm, earthquakes and epidemic as well as the effects of enemy or subversive activities against the populace, communities, industrial plants, facilities and other installations.

(Ord. 1962-1, passed 4-2-62)

§ 94.02 CIVIL DEFENSE DIRECTOR; POWERS AND DUTIES.

(A) The office of the Jackson Civil Defense Director is hereby created. The officer shall be nominated by the Chief Executive of the city.

(B) The Civil Defense Director is hereby charged with the following powers and duties.

- (1) To represent the City Chief Executive on all matters pertaining to Civil Defense.
- (2) To develop a city civil defense plan, which shall provide for the effective mobilization of all the resources of the city, both private and public.
- (3) To obtain and utilize cooperation of city officials in the preparation and implementation of civil defense plans.
- (4) During periods of emergency to direct the services of all city civil defense forces.
- (5) During periods of emergency to obtain vital supplies and equipment lacking, which are needed for the protection of life and property of people and bind the city for the value thereof and if

required immediately, requisition same.
 (Ord. 1962-1, passed 4-2-62)

§ 94.03 CIVIL DEFENSE UNIT; DIVISIONS.

(A) Officers and employees of the city with volunteer forces enrolled to aid them during an emergency and all groups, organizations and persons who make the agreements on operation of law be charged with duties necessary for the protection of the life and property in the city during such an emergency shall constitute the Civil Defense Unit.

(B) The functions and duties of the Civil Defense Unit shall be distributed among the divisions as listed below. Each division shall be under the direction of a Service Chief appointed by the local Director. In preparing an ordinance or resolution, appropriate wording should be used. The Service Chiefs will be selected from among the best qualified in the city and may include but not be restricted to Chiefs of existing community services. Arranged within each division are the various civil defense services, each service under the direction of a Chief designated to head this service due to his intimate knowledge of the particular service and his qualities as a leader. The divisions are as follows:

<i>Plans and Operations</i>	<i>Education and Training</i>	<i>Resources and Production</i>
CBR Defense	Education	Damage Assessment
Communications	Training	Manpower
Disaster Operations	Publications	Industry
Engineering	Public Information	Supply
Police	Public Affairs	Health
Fire		Transportation
Planning		Welfare
Shelter		
Rescue		

(Ord. 1962-1, passed 4-2-62)

§ 94.04 VOLUNTEERS.

All persons other than officers and employees of the city volunteering in service pursuant to the defense of this chapter shall serve with or without compensation. While engaged in such service they shall have the same immunities as persons and employees of the city performing similar duties.

(Ord. 1962-1, passed 4-2-62)

§ 94.05 PROHIBITIONS.

During an emergency it shall be unlawful to:

(A) Willfully obstruct, hinder, or delay any member of the Civil Defense Unit, any enforcement of a lawful rule or regulations issued pursuant to this chapter or in the performance of any duty imposed upon him by the virtue of this chapter.

(B) Do any act forbidden by any lawful rules or regulations issued pursuant to this chapter if such act is of such nature as to give assistance to the imperil or delay the defense or protection thereof;

(C) Wear or carry or display without authority any mark or identification specified by the Civil Defense Unit.

(Ord. 1962-1, passed 4-2-62)

§ 94.99 PENALTY.

Any person who violates § 94.05 of this chapter shall be guilty of a misdemeanor punishable by a fine not to exceed \$500, and by imprisonment not to exceed six months or both such fine and imprisonment.

(Ord. 1962-1, passed 4-2-62)

CHAPTER 95: ANIMALS

Section

General Provisions

95.01 Definitions

Dogs

95.15 Dogs at large

95.16 Removal of excrement

Chickens

95.30 Chickens inside city limits

95.99 Penalty

GENERAL PROVISIONS

§ 95.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AT LARGE. To be off the premises of the owner and not restrained by leash, chain or chord and under the control of the owner or individual with physical capacity to control the dog. (Ord. 121814, passed 12-30-14; Am. Ord. 072017A, passed 7-20-17)

*DOGS***§ 95.15 DOGS AT LARGE.**

It shall be unlawful for any owner or responsible persons acting for the owner to permit the dog or dogs to run at large unrestrained in the city limits. All dogs must be secured by means of a collar or harness, with chain or leash attached thereto and held by the owner or persons acting for the owner when off their property.

(A) To run at large as hereinbefore defined.

(B) To go about or on the premises or property of any other person within the city limits without the permission of that person.

(C) Citations will be issued and enforced.

(Ord. 121814, passed 12-30-14; Am. Ord. 072017A, passed 7-20-17)

§ 95.16 REMOVAL OF EXCREMENT.

(A) No person shall allow a dog under his or her control to be upon public property or upon the property of another, absent the consent of the owner or occupant of the property, without some device for removal and containment of the dog's excrement; nor shall any person fail to remove and dispose of properly any excrement deposited by any dog under his or her control on public or private property.

(B) This section shall not apply to any guide or "seeing eye" dog under the control of a blind person.

(Ord. 121814, passed 12-30-14; Am. Ord. 072017A, passed 7-20-17)

*CHICKENS***§ 95.30 CHICKENS INSIDE CITY LIMITS.**

(A) No more than five chickens (laying hens) can be kept in cages in residential areas only and within all zoning guidelines (20 feet from the household property) in the city.

(B) No roosters or fighting roosters are allowed to be kept inside the city limits of Jackson.

(Ord. 012314-C, passed 1-23-14)

§ 95.99 PENALTY.

(A) Penalty for first violation will be a \$50 fine and \$100 fine for each subsequent violation.

(B) The penalty set forth above will be enforced by the Animal Control Officer and the City of Jackson.

(Ord. 121814, passed 12-30-14; Am. Ord. 072017A, passed 7-20-17)

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. OCCUPATIONAL LICENSE TAXES**
- 111. PEDDLERS, ITINERANT MERCHANTS AND SOLICITORS**
- 112. PAWNBROKERS**
- 113. INSURANCE COMPANIES**
- 114. ADVERTISING**
- 115. TOURIST AND CONVENTION COMMISSION**
- 116. ALCOHOLIC BEVERAGE CONTROL**
- 117. PAIN CLINICS**

CHAPTER 110: OCCUPATIONAL LICENSE TAXES

Section

General Provisions

- 110.01 Definitions
- 110.02 License application required
- 110.03 Occupational license tax payment required
- 110.04 Apportionment
- 110.05 Employers to withhold
- 110.06 Returns required
- 110.07 Extensions
- 110.08 Refunds
- 110.09 Federal audit provisions
- 110.10 Administrative provisions
- 110.11 Information to remain confidential
- 110.12 Use of occupational license tax

Supplemental and Optional Provisions

- 110.20 Payment of estimated tax quarterly
- 110.21 Refunds when estimated tax quarterly payments made
- 110.22 Occupational license tax payment required—minimum and maximum tax amounts
- 110.23 Form 1099 filing requirement

- 110.99 Penalty

GENERAL PROVISIONS

§ 110.01 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. Any enterprise, activity, trade, occupation, profession or under taking of any nature conducted for gain or profit. **BUSINESS** shall not include the usual activities of board trade, chambers of commerce, trade associations, or unions, or other associations performing services usually performed by trade associations or unions. **BUSINESS** shall not include funds, foundations, corporations, or associations organized and operated for the exclusive and sole purpose of religious, charitable, scientific, literary, educational, civic or fraternal purposes, where no part of the earnings, incomes or receipts of such unit, group, or association, inures to the benefit of any private shareholder or other person.

BUSINESS ENTITY. Each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted.

CITY. The City of Jackson, Kentucky.

COMPENSATION. Wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:

(1) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and

(2) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code.

CONCLUSION OF THE FEDERAL AUDIT. The date that the adjustments made by the Internal Revenue Service to net income as reported on the business entity's federal income tax return become final and unappealable.

EMPLOYEE. Any person who renders services to another person or any business entity for compensation, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency of instrumentality of any one or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee.

EMPLOYER. The person for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that:

(1) If the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, **EMPLOYER** means the person having control of the payment of such wages; and

(2) In the case of a person paying wages on behalf of a non resident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, **EMPLOYER** means such person.

FINAL DETERMINATION OF THE FEDERAL AUDIT. The revenue agent's report or other documents reflecting the final and unappealable adjustments made by the Internal Revenue Service.

FISCAL YEAR. An accounting period of 12 months ending on the last day of any month other than December.

INTERNAL REVENUE CODE. The Internal Revenue Code in effect on December 31, 2003, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2003, that would otherwise terminate.

NET PROFIT. Gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:

(1) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;

(2) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;

(3) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;

(4) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and

(5) Exclude any amount of income that is exempt from the state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States;

PERSON. Every natural person, whether a resident or a non-resident of the city. Whenever the word **PERSON** is used in a clause prescribing and imposing a penalty in the nature of a fine or imprisonment, the word, as applied to a partnership or other form of unincorporated enterprise, shall mean the partners or members thereof, and as applied to corporations, shall mean the officers and directors thereof.

RETURN or REPORT. Any properly completed and, if required, signed form, statement, certification, declaration, or any other document permitted or required to be submitted or filed with the city.

SALES REVENUE. Receipts from the sale, lease, or rental of goods, services or property.

TAX DISTRICT. Any city of the first to fifth class, county, urban county, charter county, consolidated local government, school district, special taxing district, or any other statutorily created entity with the authority to levy net profits, gross receipts, or occupational license taxes.

TAXABLE NET PROFIT.

(1) In case of a business entity having payroll or sales revenue only within the city means net profit as defined above in this section.

(2) In case of a business entity having payroll or sales revenue both within and without a city means net profit as defined above in this section, and as apportioned under § 110.04.

TAXABLE YEAR. The calendar year or fiscal year ending during the calendar year, upon the basis of which net income is computed.

(Ord. 51782-1, passed 5-17-82; Am. Ord. 061908, passed 6-19-08)

§ 110.02 LICENSE APPLICATION REQUIRED.

Every person and business entity engaged in any business in the City of Jackson shall be required to apply for and obtain an occupational license from the City of Jackson before the commencement of business or in the event of a change of business status. Licensees are required to notify the city of any changes in address, the cessation of business, or any other changes which render the information supplied to the city in the license application inaccurate.

(Ord. 51782-1, passed 5-17-82; Am. Ord. 061908, passed 6-19-08) Penalty, see § 110.99

§ 110.03 OCCUPATIONAL LICENSE TAX PAYMENT REQUIRED.

(A) Except as provided in division (B) of this section, every person or business entity engaged in any business for profit and any person or business entity that makes a filing with the Internal Revenue Service or the Kentucky Revenue Cabinet shall be required to file and pay to the city an annual occupational license tax for the privilege of engaging in such activities within the city. The occupational license tax shall be measured by 2% of:

(1) All wages and compensation paid or payable in the city for work done or services performed or rendered in the city by every resident and nonresident who is an employee;

(2) The net profits from business conducted in the city by a resident or nonresident business entity, or \$100, whichever is greater.

(B) The maximum tax liability under this chapter shall be assessed as follows:

(1) For each employee 2%. This maximum shall be applied by each employer on the compensation by each employee and deductions shall be made only upon the gross amount of compensation which does not exceed the FICA maximum established for that year;

(2) For each business entity, there shall be 2% maximum liability for the portion of the occupational license tax which is measured by net profits.

(C) The occupational license tax imposed in this section shall not apply to the following persons or business entities:

(1) Any bank, trust company, combined bank and trust company, or trust, banking and title insurance company organized and doing business in this state, any savings and loan association whether state or federally chartered;

(2) Any compensation received by members of the Kentucky National Guard for active duty training, unit training assemblies and annual field training;

(3) Any compensation received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections;

(4) Public service corporations that pays an ad valorem tax on property valued and assessed by the Kentucky Department of Revenue pursuant to the provisions of KRS 136.120. Licensees whose businesses are predominantly non-public service who are also engaged in public service activity are required to pay a license fee on their gross receipts derived from the non-public service activities apportioned to the city;

(5) Persons whose sole business activity is the manufacture of and/or sale of alcoholic beverages. Persons engaged in the business of manufacturing and/or selling alcoholic beverages are required to file a return, but may exclude the portion of their gross receipts derived from such manufacturing and/or sale of alcoholic beverages; and

(6) Life insurance companies incorporating under the laws of and doing business in the Commonwealth of Kentucky.
(Ord. 51782-1, passed 5-17-82; Am. Ord. 061908, passed 6-19-08; Am. Ord. 030311, passed 3-3-11)
Penalty, see § 110.99

Cross-reference:

Payment of estimated tax quarterly, see § 110.20

§ 110.04 APPORTIONMENT.

(A) Except as provided in division (D) of this section, gross receipts shall be apportioned as follows:

(1) For business entities with both payroll and sales revenue in more than one tax district, by multiplying the gross receipts by a fraction, the numerator of which is the payroll factor, described in division (B) of this section, plus the sales factor, described in division (C) of this section, and the denominator of which is two; and

(2) For business entities with sales revenue in more than one tax district, by multiplying the gross receipts by the sales factor as set forth in division (C) of this section.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the city during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the city based on the time the individual's service is performed within the city.

(C) The sales factor is a fraction, the numerator of which is the total sales revenue of the business entity in the city during the tax period, and the denominator of which is the total sales revenue of the business entity everywhere during the tax period.

(1) The sales, lease, or rental of tangible personal property is in the city if:

(a) The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the city regardless of the f.o.b point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory, or other place of storage in the city and the purchaser is the United States government.

(2) Sales revenues, other than revenues from the sale, lease or rental of tangible personal property or the lease or rental of real property, are apportioned to the city based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the city and the denominator of which is total time spent performing that income-producing activity.

(3) Sales revenue from the sale, lease, or rental of real property is allocated to the tax district where the property is located.

(D) If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the city, the business entity may petition the city or the city may require, in respect to all or any part of the business entity's business activity, if reasonable:

(1) Separate accounting;

(2) The exclusion of any one or more of the factors;

(3) The inclusion of one or more additional factors which will fairly represent the business entity's business activity in the city; or

(4) The employment of any other method to effectuate an equitable allocation and apportionment of gross receipts.

(E) (1) When compensation is paid or payable for work done or services performed or rendered by an employee, both within and without the city, the license tax shall be measured by the part of the compensation paid or payable as a result of work done or service performed or rendered within the city.

(2) The license tax shall be computed by obtaining the percentage which the compensation for work performed or services rendered within the city bears to the total wages and compensation paid or payable. In order for the city to verify the accuracy of a taxpayers reported percentages under this subsection, the taxpayer shall maintain adequate records.

(F) All partnerships, S corporations, and all other entities where income is “passed through” to the owners are subject to this chapter. The occupational license tax imposed in this chapter is assessed against income before it is “passed through” these entities to the owners.

(G) If any business entity dissolves, ceases to operate, or withdraws from the city during any taxable year, or if any business entity in any manner surrenders or loses its charter during any taxable year, the dissolution, cessation of business, withdrawal, or loss or surrender of charter shall not defeat the filing of returns and the assessment and collection of any occupational license tax for the period of that taxable year during with the business entity had business activity in the city.

(H) If a business entity makes, or is required to make, a federal income tax return, the occupational license tax shall be computed for the purposes of this chapter on the basis of the same calendar or fiscal year required by the federal government, and shall employ the same methods of accounting required for federal income tax purposes.

(Ord. 061908, passed 6-19-08)

§ 110.05 EMPLOYERS TO WITHHOLD.

(A) Every employer making payment of compensation to an employee shall deduct and withhold from the compensation an occupational license tax calculated under § 110.03.

(B) Every employer required to deduct and withhold tax under this section shall, for the quarter ending after January 1 and for each quarter ending thereafter, on or before the end of the month following the close of each quarter, make a return and report to the city, and pay to the city, the tax required to be withheld under this section, unless the employer is permitted or required to report within a reasonable time after some other period as determined by the city.

(C) Every employer who fails to withhold or pay to the city any sums required by this chapter to be withheld and paid shall be personally and individually liable to the city for any sum or sums withheld or required to be withheld in accordance with the provisions of this section.

(D) The city shall have a lien upon all the property of any employer who fails to withhold or pay over to the city sums required to be withheld under this section. If the employer withholds, but fails to pay the amounts withheld to the city, the lien shall commence as of the date the amounts withheld were required to be paid to the city. If the employer fails to withhold, the lien shall commence at the time the liability of the employer is assessed by the city.

(E) Every employer required to deduct and withhold tax under this section shall annually on or before February 28 of each year complete and file on a form furnished or approved by the city a reconciliation of the occupational license tax withheld where compensation is paid or payable to employees. Either copies of federal forms W-2 and W-3, transmittal of wage and tax statements, or a detailed employee listing with the required equivalent information, as determined by the city, shall be submitted.

(F) Every employer shall furnish each employee a statement on or before January 31 of each year showing the amount of compensation and occupational license tax deducted by the employer from the compensation paid to the employee for payment to the city during the preceding calendar year.

(G) An employer shall be liable for the payment of the tax required to be deducted and withheld under this section.

(H) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any business entity subject to this section shall be personally and individually liable, both jointly and severally, for any tax required to be withheld from compensation paid or payable to one or more employees of the business entity, and neither the corporate dissolution or withdrawal of the business entity from the city, nor the cessation of holding any corporate office, shall discharge that liability; provided that the personal and individual liability shall apply to each and every person holding the corporate office at the time the tax becomes or became obligated. No person shall be personally and individually liable under this division (H) unless such person had authority to collect, truthfully account for, or pay over the tax imposed by this chapter at the time that the taxes imposed by this chapter become or became due.

(I) Notwithstanding divisions (F), (G) and (H) above, every employee receiving compensation in the city subject to the tax imposed under § 110.03 shall be personally liable for any amount due. In all cases where the employer does not withhold the tax levied under this chapter from the employee, such employee or employees shall be responsible for filing with the city each quarter in the same manner as if they were the employer.

(Ord. 51782-1, passed 5-17-82; Am. Ord. 061908, passed 6-19-08) Penalty, see § 110.99

§ 110.06 RETURNS REQUIRED.

(A) All business entity returns for the preceding taxable year shall be made by April 15 of each year, except returns made on the basis of a fiscal year, which shall be made by the fifteenth day of the fourth month following the close of the fiscal year. Blank forms for returns shall be supplied by the city.

(B) Every business entity shall submit a copy of its federal income tax return and all supporting statements and schedules at the time of filing its occupational license tax return with the city. Whenever, in the opinion of the city, it is necessary to examine the federal income tax return of any business entity in order to audit the return, the city may compel the business entity to produce for inspection a copy of any statements and schedules in support thereof that have not been previously filed. The city may also require copies of reports of adjustments made by the federal government.

(C) Every business entity subject to an occupational license tax governed by the provisions of this chapter shall keep record, render under oath statements, make returns, and comply with rules as the city from time to time may prescribe. Whenever the city deems it necessary, the city may require a business entity, by notice served to the business entity, to make a return, render statements under oath, or keep records, as the city deems sufficient to determine the tax liability the business entity.

(D) The city may require, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the taxable income of any business entity, the attendance of a representative of the business entity or of any other person having knowledge in the premises.

(E) The full amount of the unpaid tax payable by any business entity, as appears from the face of the return, shall be paid to the city at the time prescribed for filing the occupational license tax return, determined without regard to any extension of time for filing the return.

(F) Every business entity making payments of \$600 or more to persons other than employees for services performed within the city are responsible for maintaining the records of those payments and for completing IRS Form 1099 on or before February 28 of the year following the close of the calendar year in which such compensation was paid.

(Ord. 51782-1, passed 5-17-82; Am. Ord. 061908, passed 6-19-08; Am. Ord. 030311, passed 3-3-11)
Penalty, see § 110.99

§ 110.07 EXTENSIONS.

(A) The city may grant any business entity an extension of not more than six months, unless a longer extension has been granted by the Internal Revenue Service or is agreed to by the city and the business entity, for filing its return, if the business entity, on or before the date prescribed for payment of the occupational license tax, requests the extension and pays the amount properly estimated as its tax.

(B) If the time for filing a return is extended, the business shall pay, as part of the tax, an amount equal to 12% per annum simple interest on the tax shown due on the return, but not been previously paid, from the time the tax was due until the return is actually filed and the tax paid to the city. A fraction of a month is counted as an entire month.

(Ord. 061908, passed 6-19-08) Penalty, see § 110.99

§ 110.08 REFUNDS.

(A) Where there has been an overpayment of tax under § 110.05, a refund or credit shall be made to the employer to the extent of overpayment only if a written application for refund or credit is received by the city from the employer within two years from the date the overpayment was made.

(B) An employee who has compensation attributable to activities performed outside the city, based on time spent outside the city, whose employer has withheld and remitted to this city, the occupational license tax on the compensation attributable to activities performed outside the city, may file for a refund

within two years of the date prescribed by law for the filing of a return. The employee shall provide a schedule and computation sufficient to verify the refund claim and the city may confirm with the employer the percentage of time spent outside the city and the amount of compensation attributable to activities performed outside the city prior to approval of the refund.

(Ord. 061908, passed 6-19-08)

Cross-reference:

Refunds when estimated tax quarterly payments made, see § 110.21

§ 110.09 FEDERAL AUDIT PROVISIONS.

(A) (1) As soon as practicable after each return is received, the city may examine and audit the return. If the amount of tax computed by the city is greater than the amount returned by the business entity, the additional tax shall be assessed and a notice of assessment mailed to the business entity by the city within five years from the date the return was filed, except as otherwise provided in this division (A).

(a) In the case of a failure to file a return or of a fraudulent return the additional tax may be assessed at any time.

(b) In the case of a return where a business entity understates net profit, or omits an amount properly includable in net profits, or both, which understatement or omission, or both, is in excess of 25% of the amount of net profit stated in the return, the additional tax may be assessed at any time within six years after the return was filed.

(c) In the case of an assessment of additional tax relating directly to adjustments resulting from a final determination of a federal audit, the additional tax may be assessed before the expiration of the times provided in this division (A), or six months from the date the city receives the final determination of the federal audit from the business entity, whichever is later.

(2) The times provided in this division (A) may be extended by agreement between the business entity and the city. For the purposes of this division (A), a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(3) Any extension granted for filing the return shall also be considered as extending the last day prescribed by law for filing the return.

(B) Every business entity shall submit a copy of the final determination of the federal audit within 30 days of the conclusion of the federal audit.

(C) The city may initiate a civil action for the collection of any additional tax within the times prescribed in division (A) above.

(Ord. 061908, passed 6-19-08) Penalty, see § 110.99

§ 110.10 ADMINISTRATIVE PROVISIONS.

(A) No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this chapter.

(B) (1) Any tax collected pursuant to the provisions of this chapter may be refunded or credited within two years of the date prescribed by law for the filing of a return or the date the money was paid to the city, whichever is the later, except that:

(a) In any case where the assessment period contained in § 110.09 has been extended by an agreement between the business entity and the city, the limitation contained in this division (B) shall be extended accordingly.

(b) If the claim for refund or credit relates directly to the adjustments resulting from a federal audit, the business entity shall file a claim for refund or credit within the time provided for in this division (B) or six months from the conclusion of the federal audit, whichever is later.

(2) For the purposes of this division and division (A) above, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(C) The authority to refund or credit overpayments of taxes collected pursuant to this chapter is vested exclusively in the city.

(Ord. 061908, passed 6-19-08)

§ 110.11 INFORMATION TO REMAIN CONFIDENTIAL.

(A) No present or former employee of any tax district shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the tax district or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly authorized agent with the information respecting his or her own return. Further, this prohibition does not preclude any employee of the tax district from testifying in any court, or from introducing as evidence returns or reports filed with the tax district, in an action for violation of a tax district tax laws or in any action challenging a tax district tax laws.

(B) The city reserves the right to disclose to the Commissioner of Revenue of the Commonwealth of Kentucky or his or her duly authorized agent all such information and rights to inspect any of the books and records of the city if the Commissioner of Revenue of the Commonwealth of Kentucky grants to the city the reciprocal right to obtain information from the files and records of the Kentucky

Department of Revenue and maintains the privileged character of the information so furnished. Provided, further, that the city may publish statistics based on such information in such a manner as not to reveal data respecting net profits or compensation of any person.

(C) In addition, the city is empowered to execute similar reciprocity agreements as described in division (B) of this section with any other taxing entity, should there be a need for exchange of information in order to effect diligent enforcement of this chapter.

(Ord. 51782-1, passed 5-17-82; Am. Ord. 061908, passed 6-19-08) Penalty, see § 110.99

§ 110.12 USE OF OCCUPATIONAL LICENSE TAX.

All money derived from the license taxes under the provisions of this chapter shall be paid to the city and placed to the credit of the city's general revenue fund.

(Ord. 061908, passed 6-19-08)

SUPPLEMENTAL AND OPTIONAL PROVISIONS

§ 110.20 PAYMENT OF ESTIMATED TAX QUARTERLY.

(A) Every business entity, other than a sole proprietorship, subject to taxation under this chapter shall make quarterly estimated tax payments on or before the fifteenth day of the fourth, sixth, ninth and twelfth months of each taxable year if the tax liability for the taxable year exceeds \$5,000.

(B) The quarterly estimated tax payments required under division (A) of this section shall be based on the lesser of:

(1) Twenty-two and one-half percent of the current taxable year tax liability;

(2) Twenty-five percent of the preceding full year taxable year tax liability; or

(3) Twenty-five percent of the average tax liability for the three preceding full year taxable year's liabilities if the tax liability for any of the three preceding full taxable years exceeds \$20,000.

(C) (1) Any business entity that fails to submit the minimum quarterly payment required under division (B) of this section by the due date for the quarterly payment shall pay an amount equal to 12% per annum simple interest on the amount of the quarterly payment required under division (B) of this section from the earlier of:

(a) The due date for the quarterly payment until the time when the aggregate quarterly payments submitted for the taxable year equal the minimum aggregate payments due under division (B) of this section; or

(b) The due date of the annual return.

(2) A fraction of a month is counted as an entire month.

(D) The provisions of this section shall not apply to any business entity's first full or partial taxable year of doing business in the city or any first taxable year in which a business entity's tax liability exceeds \$5,000.

(E) At the election of the business entity, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

(Ord. 061908A, passed 6-19-08)

§ 110.21 REFUNDS WHEN ESTIMATED TAX QUARTERLY PAYMENTS MADE.

When a city elects to enact the estimated quarterly tax, the following provisions shall be applicable, in addition to the provisions in § 110.08:

(A) In the case where the tax computed under the provisions of this chapter is less than the amount which has been declared and paid as estimated tax for the same taxable year, a refund or credit, if a credit is requested, shall be made upon the filing of a return.

(B) (1) Overpayment resulting from the payment of estimated tax in excess of the amount determined to be due upon the filing of a return for the same taxable year may be credited against the amount of estimated tax determined to be due on any declaration filed for the next succeeding taxable year or for any deficiency or nonpayment of tax for any previous taxable year.

(2) No refund shall be made of any estimated tax paid unless a complete return is filed as required by this chapter.

(Ord. 062608A, passed 6-26-08)

Cross-reference:

Refunds in general, see § 110.08

§ 110.22 OCCUPATIONAL LICENSE TAX PAYMENT REQUIRED—MINIMUM AND MAXIMUM TAX AMOUNTS.

(A) Except as provided in division (B) below, every person or business entity engaged in any business for profit and any person or business entity that makes a filing with the Internal Revenue Service or the Kentucky Revenue Cabinet shall be required to file and pay to the city an annual occupational license tax for the privilege of engaging in such activities within the city. The occupational license tax shall be measured by 1 % of:

(1) All wages and compensation paid or payable in the city for work done or services performed or rendered in the city by every resident and non resident who is an employee;

(2) The net profits from business conducted in the city by a resident or nonresident business entity, or \$100, whichever is greater.

(B) The maximum tax liability under this chapter shall be assessed as follows:

(1) For each employee, 1%. This maximum shall be applied by each employer on the compensation by each employee and deduction shall be made only upon the gross amount of compensation which does not exceed the FICA maximum established for that year.

(2) For each business entity, there shall be a 1% maximum liability for the portion of the occupational license tax which is measured by net profits.

(C) The occupational license tax imposed in this section shall not apply to the following persons or business entities:

(1) Any bank, trust company, combined bank and trust company, or trust, banking and title insurance company organized and doing business in this state, any savings and loan association whether state or federally chartered;

(2) Any compensation received by members of the Kentucky National Guard for active duty training, unit training assemblies and annual field training;

(3) Any compensation received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections;

(4) Public service corporations that pay an ad valorem tax on property valued and assessed by the Kentucky Department of Revenue pursuant to the provisions of KRS 136.120. Licensees whose businesses are predominantly non-public service who are also engaged in public service activity are required to pay a license fee on their gross receipts derived from the non-public service activities apportioned to the city;

(5) Persons whose sole business activity is the manufacture of and/or sale of alcoholic beverages. Persons engaged in the business of manufacturing and/or selling alcoholic beverages are required to file a return, but may exclude the portion of their gross receipts derived from the manufacturing and/or sale of alcoholic beverages;

(6) Life insurance companies incorporated under the laws of and doing business in the Commonwealth of Kentucky.

(Ord. 062808A, passed 6-28-08) Penalty, see § 110.99

Cross-reference:

Occupational license tax payment required, generally, see § 110.03

§ 110.23 FORM 1099 FILING REQUIREMENT.

(A) In addition to the requirements of § 110.06, every business entity making payments of \$600 or more to persons other than employees for services performed within the city are responsible for maintaining the records of those payments and for completing IRS Form 1099 on or before February 28 of the year following the close of the calendar year in which such compensation was paid.

(B) *Optional.* Persons or business entities not required to remit a Form 1099 remain liable to the city to remit equivalent information for any compensation made to persons or business entities that are not employees.

(Ord. 062808A, passed 6-28-08) Penalty, see § 110.99

Cross-reference:

Returns required, see § 110.06

§ 110.99 PENALTY.

(A) (1) A business entity subject to tax on gross receipts may be subject to a penalty equal to 5% of the tax due for each calendar month or fraction thereof if the business entity:

(a) Fails to file any return or report on or before the due date prescribed for filing or as extended by the city; or

(b) Fails to pay the tax computed on the return or report on or before the due date prescribed for payment.

(2) The total penalty levied pursuant to this division (A) shall not exceed 25% of the total tax due; however, the penalty shall not be less than \$25.

(B) Every employer who fails to file a return or pay the tax on or before the time prescribed under § 110.05 may be subject to a penalty in amount equal to 5% of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this division (B) shall not exceed 25% of the total tax due; however, the penalty shall not be less than \$25.

(C) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to 12% per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to the city. A fraction of a month is counted as an entire month.

(D) Every tax imposed by this chapter, and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, a personal debt of the taxpayer to the city.

(E) The city may enforce the collection of the occupational tax due under § 110.03 and any fees, penalties, and interest as provided in divisions (A), (B), (C) and (D) of this section by civil action in a court of appropriate jurisdiction. To the extent authorized by law, the city shall be entitled to recover all court costs and reasonable attorney fees incurred by it in enforcing any provisions of this chapter.

(F) In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with the intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.

(G) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under this ordinance of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter whether or not the falsity or fraud is the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.

(H) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the city and required to be filed with the city by the provisions of this chapter, or by the rules of the city or by written request for information to the business entity by the city.

(I) Any person violating the provisions of § 110.11 by intentionally inspecting confidential taxpayer information without authorization, shall be fined not more than \$500 or imprisoned for not longer than six months or both.

(J) Any person violating the provisions of § 110.11 by divulging confidential taxpayer information shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.
(Ord. 061908, passed 6-19-08)

CHAPTER 111: PEDDLERS, ITINERANT MERCHANTS, AND SOLICITORS

Section

- 111.01 Definitions
- 111.02 License requirement
- 111.03 Application procedure
- 111.04 Standards for issuance
- 111.05 Revocation procedure
- 111.06 Standards for revocation
- 111.07 Appeal procedure
- 111.08 Exhibition of identification

- 111.99 Penalty

§ 111.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. The business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

GOODS. Merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

ITINERANT MERCHANT. Any person, whether as owner, agent, or consignee, who engages in a temporary business of selling goods within the city and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the city.

PEDDLER.

(1) Any person who travels from place to place by any means carrying goods for sale, or making sales, or making deliveries; or

(2) Any person who, without traveling from place to place, sells or offers goods for sale from any public place within the city.

A person who is a peddler is not an itinerant merchant.

SOLICITOR. Any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future. A person who is a solicitor is not a peddler.

§ 111.02 LICENSE REQUIREMENT.

(A) Any person who is an itinerant merchant, peddler, or solicitor shall obtain a license before engaging in such activity within the city.

(B) The fee for the license required by this chapter shall be as set from time to time by the legislative body.

(C) No license issued under this chapter shall be transferable.

(D) All licenses issued under this chapter shall expire 90 days after the date of issuance thereof. Penalty, see § 111.99

§ 111.03 APPLICATION PROCEDURE.

(A) All applicants for licenses required by this chapter shall file an application with the City Clerk. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. The applicant may be requested to provide information concerning the following items:

(1) The name and address of the applicant;

(2) (a) The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the city;

(b) The local address of such individual;

(c) The permanent address of such individual;

(d) The capacity in which such individual will act;

(3) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;

(4) The time period or periods during which it is proposed to carry on applicant's business;

(5) (a) The nature, character, and quality of the goods or services to be offered for sale or delivered;

(b) If goods, their invoice value and whether they are to be sold by sample as well as from stock;

(c) If goods, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;

(6) The nature of the advertising proposed to be done for the business;

(7) Whether or not the applicant, or the individual identified in division (A)(2)(a) above, or the person identified division (A)(3) has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.

(B) Applicants for peddler or solicitor licenses may be required to provide further information concerning the following items, in addition to that requested under division (A) above:

(1) A description of the applicant;

(2) A description of any vehicle proposed to be used in the business, including its registration number, if any.

(C) All applicants for licenses required by this chapter shall attach to their application the following:

(1) If required by the city, copies of all printed advertising proposed to be used in connection with the applicant's business;

(2) If required by the city, credentials from the person, if any, for which the applicant proposes to do business, authorizing the applicant to act as such representative.

(D) Applicants who propose to handle foodstuffs shall also attach to their application, in addition to any attachments required under division (C), a statement from a licensed physician, dated not more than ten days prior to the date of application, certifying the applicant to be free of contagious or communicable disease.

Penalty, see § 111.99

§ 111.04 STANDARDS FOR ISSUANCE.

(A) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made.

(B) The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence that the applicant:

(1) Has been convicted of a crime of moral turpitude; or

(2) Has made willful misstatements in the application; or

(3) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like; or

(4) Has committed prior fraudulent acts; or

(5) Has a record of continual breaches of solicited contracts; or

(6) Has an unsatisfactory moral character

will constitute valid reasons for disapproval of an application.

§ 111.05 REVOCATION PROCEDURE.

Any license or permit granted under this chapter may be revoked by the City Clerk after notice and hearing, pursuant to the standards in § 111.06. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his last known address, at least ten days prior to the date set for the hearing.

§ 111.06 STANDARDS FOR REVOCATION.

A license granted under this chapter may be revoked for any of the following reasons:

(A) Any fraud or misrepresentation contained in the license application; or

(B) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license; or

(C) Any violation of this chapter; or

(D) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or

(E) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

§ 111.07 APPEAL PROCEDURE.

(A) Any person aggrieved by a decision under §§ 111.04 or 111.06 shall have the right to appeal to the legislative body. The appeal shall be taken by filing with the legislative body, within 14 days after notice of the decision has been mailed to such person's last known address, a written statement

setting forth the grounds for appeal. The legislative body shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in § 111.05.

(B) The order of the legislative body after the hearing shall be final.

§ 111.08 EXHIBITION OF IDENTIFICATION.

(A) Any license issued to an itinerant merchant under this chapter shall be posted conspicuously in or at the place named therein. In the event more than one place within the city shall be used to conduct the business licensed, separate licenses shall be issued for each place.

(B) The City Clerk shall issue a license to each peddler or solicitor licensed under this chapter. The license shall contain the words “Licensed Peddler” or “Licensed Solicitor,” the expiration date of the license, and the number of the license. The license shall be kept with the licensee during such time as he is engaged in the business licensed.

Penalty, see § 111.99

§ 111.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500. Each day's violation shall constitute a separate offense.

CHAPTER 112: PAWNBROKERS

Section

- 112.01 Definitions
- 112.02 Bond
- 112.03 Register to be kept; daily reports
- 112.04 Receipt to be given for each article; sale of article
- 112.05 Maximum interest, resale price
- 112.06 Receipt to be given for payment of loan
- 112.07 Prohibited activities
- 112.08 Enforcement

- 112.99 Penalty

§ 112.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PAWNBROKER. Any person who loans money on deposit of personal property; deals in the purchase of personal property on condition of selling the property back again at a stipulated price; makes a public display at his or her place of business of the sign generally used by pawnbrokers to denote their business; or who publicly exhibits a sign advertising money to loan on personal property or deposit.
(KRS 226.010)

§ 112.02 BOND.

Every person to whom a city license is granted to carry on the business of a pawnbroker shall annually enter into bond to the city, with good and sufficient surety to be approved by City Council, in the penal sum of \$1,000. This bond shall be conditioned that he or she will observe the provisions of this chapter and all ordinances and laws in force in the city not inconsistent with this chapter.
(KRS 226.020)

§ 112.03 REGISTER TO BE KEPT; DAILY REPORTS.

(A) (1) Every pawnbroker shall keep a register of all loans and purchases of all articles by the pawnbroker from the general public. The register shall:

(a) Be reported to an online, Internet-based transaction recording service accessible to law enforcement agencies;

(b) Show the dates and the amounts of all loans or purchases by the pawnbroker from the general public, and the names of all persons who have left any property that has been pawned or sold in addition to:

1. A driver's license number;

2. Another state or federally issued picture identification card number; or

3. If the identification specified in division (A)(1)(b)1. or (A)(1)(b)2. is not available, a Social Security number may be accepted.

(c) At all times be available to the inspection of any law enforcement officer of this state when in the discharge of his or her official duty; and

(d) Contain a full description of all property purchased by the pawnbroker from the general public or received on deposit as collateral or security. When requested by law enforcement and pertaining to an investigation, a photograph of the merchandise shall be made available to law enforcement if the property is still in the possession of the pawnbroker. For purposes of this division, "full description" includes but is not limited to:

1. Make;

2. Model;

3. Color;

4. Size;

5. Manufacturer;

6. Vintage; and

7. Distinguishing marks or characteristics.

(2) When secondhand merchandise is sold to a pawnbroker, the merchandise shall be held for a minimum of 12 days before being resold.

(3) Prior to the release of property to a representative of law enforcement, the law enforcement representative shall provide to the pawnbroker a case report or other documentation that the item has been reported as stolen.

(KRS 226.040)

(B) Every pawnbroker shall, by 11:00 a.m. each day, make available to the Chief of Police a true and correct written report of all goods received by him or her, whether by pawn or purchase, during the 24 hours preceding each report. The report shall describe the goods as accurately as practicable. The Chief of Police shall furnish blanks for these reports. (KRS 226.070)

Penalty, see § 112.99

§ 112.04 RECEIPT TO BE GIVEN FOR EACH ARTICLE; SALE OF ARTICLE.

(A) Every pawnbroker shall give a plain written or printed ticket for the loan to the person negotiating or selling, and a plain written or printed receipt of the articles that have been purchased or upon which money is loaned, having on each a copy of the entries required by § 112.03(A) to be kept in his or her register. He or she shall not make any charge for the ticket or receipt.

(B) A pawnbroker may sell any article pawned after the expiration of 60 days from the maturity of the loan. However, not less than ten days before making the sale, the pawnbroker shall give notice to the person by whom the article was pawned by mail addressed to the post office address of that person as shown on the pawnbroker's register, notifying such person that, unless he or she redeems the article within ten days from the date of mailing of the notice, the article will be sold.

(KRS 226.050) Penalty, see § 112.99

§ 112.05 MAXIMUM INTEREST, RESALE PRICE.

Any pawnbroker as defined in § 112.01, may, in loaning money on deposit of personal property, charge, contract for, or receive interest at a rate not exceeding 2% per month on the unpaid principal balance of the loan, and may charge, contract for, and receive a reasonable fee, not to exceed one-fifth of the value of the loan per month, for investigating the title, storing and insuring the property, closing the loan, making daily reports to local law enforcement officers if required by § 112.03, and for other expenses, losses, and incidental costs associated with servicing such loans. Further, this fee, when made and collected, shall not be deemed as interest for any purpose of law. No pawnbroker shall directly or indirectly charge, receive, or contract for any interest or consideration greater than that allowed by this section.

(KRS 226.080) Penalty, see § 112.99

§ 112.06 RECEIPT TO BE GIVEN FOR PAYMENT OF LOAN.

Every pawnbroker, upon receiving any payment of money from a borrower, shall give to that person a plain and complete receipt for such payment, specifying separately the amount applied to principal and the amount applied to interest. In a case where the pawnbroker has purchased personal property under an agreement to sell it back at a stipulated price, the pawnbroker shall, on receiving any payment of money from the person from whom the purchased, give that person a receipt stating the original purchase price, the stipulated resale price, and the amount received.

(KRS 226.090) Penalty, see § 112.99

§ 112.07 PROHIBITED ACTIVITIES.

No pawnbroker shall receive, by way of either pledge or pawn, any article whatever from a minor at any time nor from any person between 8:00 p.m. and 7:00 a.m.

(KRS 226.030) Penalty, see § 112.99

§ 112.08 ENFORCEMENT.

The Police Department shall enforce the provisions of this chapter unless otherwise provided by KRS 226.100. However, county police, for the purpose of locating stolen goods, may carry out the provisions of KRS 226.060 within the city.

(KRS 226.100)

§ 112.99 PENALTY.

(A) Any pawnbroker or pawnbroker's clerk who violates any of the provisions of this chapter for which no penalty is otherwise provided shall, upon conviction, be guilty of a misdemeanor and shall be fined not less than \$50 nor more than \$500, and his license may be forfeited to the city. (KRS 226.990(1))

(B) Any pawnbroker who violates any of the provisions of § 112.03(B) shall be guilty of a misdemeanor and shall be fined not less than \$20 nor more than \$100. (KRS 226.990(3))

CHAPTER 113: INSURANCE COMPANIES

Section

- 113.01 Imposition of license fee
- 113.02 No license fee for companies issuing life insurance or health insurance
- 113.03 Amount of fee for companies issuing policies other than life insurance
- 113.04 Due date; interest
- 113.05 Written breakdown of collections
- 113.06 Use of monies for Fire Department purposes

§ 113.01 IMPOSITION OF LICENSE FEE.

There is hereby imposed on each and every insurance company a license fee for the privilege of engaging in the business of insurance within the corporate limits of the city.

(Ord. 021087, passed 2-10-87; Am. Ord. 082791, passed 8-27-91; Am. Ord. 052704, passed 5-27-04)

§ 113.02 NO LICENSE FEE FOR COMPANIES ISSUING LIFE INSURANCE OR HEALTH INSURANCE.

There shall be no license fee imposed upon life insurance policies and health insurance policies.

(Ord. 021087, passed 2-10-87; Am. Ord. 082791, passed 8-27-91; Am. Ord. 052704, passed 5-27-04)

§ 113.03 AMOUNT OF FEE FOR COMPANIES ISSUING POLICIES OTHER THAN LIFE OR HEALTH INSURANCE.

The license fee imposed upon each insurance company which issues any insurance policy which is not a life insurance policy shall be 8.5% of the premiums actually collected within each calendar quarter by reason of the issuance of such policies on risks located within the corporate limits of the city on those classes of business which such company is authorized to transact, less all premiums returned to policyholders; however, any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or death caused thereby, under the provisions of the Workers' Compensation Act and shall not include premiums received on policies of group health insurance provided for state employees under KRS 18A.225(2).

(Ord. 021087, passed 2-10-87; Am. Ord. 082791, passed 8-27-91; Am. Ord. 052704, passed 5-27-04)

§ 113.04 DUE DATE; INTEREST.

All license fees imposed by this chapter shall be due no later than 30 days after the end of each calendar quarter. License fees which are not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6).

(Ord. 021087, passed 2-10-87; Am. Ord. 082791, passed 8-27-91; Am. Ord. 052704, passed 5-27-04)

§ 113.05 WRITTEN BREAKDOWN OF COLLECTIONS.

Each and every insurance company subject to the license fees imposed by this chapter shall annually, by March 31, furnish the city with a written breakdown of all collections in the preceding calendar year for the following categories of insurance:

(A) Casualty.

(B) Automobile.

(C) Inland marine.

(D) Fire and allied perils.

(Ord. 021087, passed 2-10-87; Am. Ord. 082791, passed 8-27-91; Am. Ord. 052704, passed 5-27-04)

§ 113.06 USE OF MONIES FOR FIRE DEPARTMENT PURPOSES.

The city will take 30% of all insurance premium tax money and deposit into a reserve account for the purpose of purchasing new equipment and/or refurbishing of fire apparatus of the Jackson Fire Department only.

(Ord. 052704, passed 5-27-04)

CHAPTER 114: ADVERTISING

Section

- 114.01 Definitions
- 114.02 Placing advertisements upon public places; permit required
- 114.03 Fees for advertising permit
- 114.04 Denial of application; review by City Council
- 114.05 Criteria for granting or denial of applications
- 114.06 Declaration of public nuisance; abatement procedure

- 114.99 Penalty

§ 114.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED ADVERTISING DEVICE. A sign, notice, poster or display which no longer advertises a bona fide business, product, candidate, activity or event.

ADVERTISER. Any individual, corporation, association, organization, firm or a partnership who places or causes to be placed advertising devices upon public property.

ADVERTISING DEVICE. Any sign, notice, poster or display advertising a business, product, candidate for private or public office, activity or event intended to attract the attention of individuals; however, it does not include directional or other official signs, signals or announcements erected by state or other public agencies having jurisdiction or signs pertaining to drives or events of civic, philanthropic, educational or religious organizations provided said signs are temporarily posted only during the time of the drive or event.

PERSON. An individual, corporation, association, organization, firm or partnership.

PUBLIC PROPERTY. Any city or county building, public park or facility operated in the city for the use and benefit of the public, public right-of-way, road, alley, sidewalk, parking lot or any other area which has been dedicated to public use or purpose. For the purpose of this chapter, ***PUBLIC PROPERTY*** shall include utility poles, trash and garbage receptacles and other objects and structures appurtenant to and located upon public property.

UNAUTHORIZED ADVERTISING DEVICE. An advertising device posted upon public property for which no advertising permit has been granted.
(Ord. 112090-B, passed 11-20-90)

§ 114.02 PLACING ADVERTISING UPON PUBLIC PLACES; PERMIT REQUIRED.

(A) No person shall place or cause to be placed advertising devices upon public property in the city without first obtaining an advertising permit from the city. Application for an advertising permit shall be in writing and shall designate the areas of the city in which the applicant desires to place advertising devices upon public property and the projected duration that the advertising devices shall remain upon public property. The application shall include either a copy of the proposed advertising device or a description of the proposed advertising device which shall include the dimensions of the proposed device.

(B) Each application for advertising permit shall contain a consent and authorization to be signed and acknowledged by the advertiser that in the event the advertiser fails to remove abandoned advertising devices, the advertiser consents to the removal and disposal of the abandoned advertising devices by the city.

(Ord. 112090-B, passed 11-20-90; Am. Ord. 012314-A, passed 1-23-14) Penalty, see § 114.99

§ 114.03 FEES FOR ADVERTISING PERMIT.

A fee shall be collected from each applicant for an advertising permit at the time application is made. The fees shall be as follows:

(A) In the event the advertising device political sign is to be placed at one single location the sum of \$20.

(B) In the event multiple advertising devices are to be placed throughout the city, the sum of \$100.

(C) Failure to remove all political signs seven days after the election, will be forfeiture of signs and an additional \$50 removal fee to be paid to the City of Jackson.

(Ord. 112090-B, passed 11-20-90; Am. Ord. 012314-A, passed 1-23-14)

§ 114.04 DENIAL OF APPLICATION; REVIEW BY CITY COUNCIL.

(A) All applications for advertising permits shall be filed with the Mayor. No application shall be filed or considered which does not contain the information required by § 114.02 of this chapter and for which the required fee has not been paid. The Mayor, using the criteria set out in § 114.05 below, shall grant or deny the advertising permit within a period of three business days following the filing of the application.

(B) If the application is denied by the Mayor, the applicant may file with the Mayor a written request for review by the City Council within ten days following the denial. The request shall set forth the specific reasons why the permit should be granted. The request for review shall be considered by the City Council at the next regularly scheduled Jackson City Council meeting occurring seven days after the filing of the request for review.

(C) In the event the denial of the application for an advertising permit is denied upon review by the City Council, the application and fee tendered by the applicant shall be returned to the applicant. (Ord. 112090-B, passed 11-20-90) Penalty, see § 114.99

§ 114.05 CRITERIA FOR GRANTING OR DENIAL OF APPLICATIONS.

Applications for advertising permits shall be granted or denied on the basis of the following criteria:

(A) No overhead banners shall be permitted if the location of the banner shall be over a street or a highway, or if the location of the banner is adjacent to a street or highway.

(B) The proposed advertising device shall be compatible with the surroundings in which it is placed.

(C) The proposed advertising device shall be designed, installed and maintained to meet the needs of the advertiser while at the same time being the least offensive to the environment in which it is placed.

(D) The proposed advertising device shall be constructed, installed and maintained in such a manner that it does not endanger public safety or traffic safety.

(E) The proposed advertising device shall be respectful of the reasonable rights of other advertisers and members of the general public.

(F) The proposed advertising device shall not block egress to or ingress from or view to and from adjacent properties.

(G) The proposed advertising device shall serve a useful purpose and shall not be used for spite, malice or ill will.

(H) The proposed advertising device shall not have indecent or immoral content. (Ord. 112090-B, passed 11-20-90; Am. Ord. passed 4-21-93)

§ 114.06 DECLARATION OF PUBLIC NUISANCE; ABATEMENT PROCEDURE.

(A) The accumulation of advertising devices upon public property is hereby declared to be a public nuisance and may be abated in the following manner:

(1) If an authorized advertising device or an unauthorized advertising device constitutes an eminent danger to public safety, the device may be immediately removed by city forces without notice to the advertiser and the cost of the removal assessed against the advertiser if known. The device shall be stored by city forces for a period of ten days during which the advertiser may redeem the device provided storage costs, if any, are reimbursed to the city.

(2) Any unauthorized advertising device placed upon public property may be removed by city forces upon the order of the Chief of Police. However, if the identity of the advertiser can upon reasonable inquiry be ascertained, ten days notice shall be given to the advertiser to remove the device and upon the advertiser's failure to remove, the device shall be removed by city forces and the costs of the removal assessed against the advertiser.

(B) Abandoned advertising devices shall be removed by city forces twice annually during the months of June and November. The revenues generated in the granting of advertising permits shall be utilized by the city in the costs of removal of abandoned devices.

(Ord. 112090-B, passed 11-20-90)

Cross reference:

Nuisances, see Chapter 92

§ 114.99 PENALTY.

Any person who places unauthorized advertising devices upon public property in the city shall be guilty of a misdemeanor and shall for each offense be fined not less than \$100 nor more than \$500 or imprisoned in the county jail for not more than one year, or both. The placement of each unauthorized advertising device constitutes a separate offense.

(Ord. 112090-B, passed 11-20-90)

CHAPTER 115: TOURIST AND CONVENTION COMMISSION

Section

General Provisions

- 115.01 Creation of commission
- 115.02 Composition; appointment; term of office
- 115.03 Organization, duties, and responsibilities

Funding; Taxation

- 115.20 Restaurant and hotel tax
- 115.21 Definitions
- 115.22 Collection
- 115.23 Delinquency
- 115.24 Tax supplementary
- 115.25 Documentation
- 115.26 Exemptions
- 115.27 Use of funds
- 115.28 Bond retirement

- 115.99 Penalty

GENERAL PROVISIONS

§ 115.01 CREATION OF COMMISSION.

There is hereby created a commission to be known as the Jackson Tourist and Convention Commission.

(Ord. 62697, passed 6-26-97)

§ 115.02 COMPOSITION; APPOINTMENT; TERM OF OFFICE.

The Commission established pursuant to KRS 91A.350 shall be composed of seven members, who shall reside in Breathitt County, and shall be appointed by the Mayor of the city pursuant to KRS 91A.360(1)(a) through (e). Vacancies shall be filled in the same manner that original appointments are made. The commissioners shall be appointed for a term of three years, provided that in making the initial appointments the Mayor shall appoint three members for a term of three years, two members for a term of two years, and two members for a term of one year. No list of candidates submitted to the Mayor under this section shall include any persons related to one another closer than the third degree, nor in business with any other person on said list.

(Ord. 62697, passed 6-26-97)

§ 115.03 ORGANIZATION, DUTIES, AND RESPONSIBILITIES.

The Commission shall elect from its membership a chairperson and a treasurer and may employ such personnel and make such contracts as are necessary to carry out effectively the purpose of KRS 91A.350 through 91A.400. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services, and other services and materials relating to the promotion of tourist and/or convention business in the city, provided that contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials, such as advertising firms, chambers of commerce, publishers, and printers. All such employment of personnel and contracts shall be entered into within the budgetary guidelines resulting from any funding sources created by the City Council.

(Ord. 62697, passed 6-26-97)

FUNDING; TAXATION**§ 115.20 RESTAURANT AND HOTEL TAX.**

For the purpose of funding the operation of the Jackson Tourist and Convention Commission and of financing the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business, there is hereby imposed pursuant to KRS 91A.390 and 91A.400 and levied a special tax of 3% of the gross retail sales of all restaurants and a transient room tax of 3% on all hotels and motels.

(Ord. 090397, passed 8-19-97)

§ 115.21 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HOTEL or MOTEL. An entity that rents a room, rooms, suites, cabins, beds, or other like or similar operations to the general public.

RESTAURANT. Any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including but not limited to restaurants, coffee shops, cafeterias, short order cafés, luncheonettes, grills, tea rooms, sandwich shops, soda fountains, roadside stands, street vendors, catering kitchens, delicatessens, or similar places in which food is prepared for sale for consumption, on the premises or elsewhere. It does not include schools, food vending machines, and establishments serving beverages only in original container.
(Ord. 090397, passed 8-19-97)

§ 115.22 COLLECTION.

On and after October 1, 1997, every person, company, corporation, or other like or similar persons, groups, or organizations doing business as restaurants or as hotel or motels located in the city shall pay quarterly to the City Clerk-Tax Collector a tax of 3% of the gross retail sales or rental collected by them for the preceding quarter. Such tax shall be due and payable to the City Clerk-Tax Collector 15 days after the last day of each quarter, together with a return on a form furnished by or obtained from the City Clerk-Tax Collector, setting forth the aggregate amount of gross retail sales charged and collected during the period to which the tax return applies, together with other such pertinent information as the Clerk may require. Restaurants and hotels and motels would begin submitting this tax effective the Quarter ending June 30, 2011 which would make the due date of July 15, 2011.
(Ord. 090397, passed 8-19-97; Am. Ord. 052611, passed 5-26-11)

§ 115.23 DELINQUENCY.

Any tax imposed by this subchapter which shall remain unpaid after it becomes due, as set forth in herein, shall have added to it a penalty of 10%, together with interest at the legal rate against the total amount of the tax and penalty. After 60 days, the amount of the penalty and interest owed shall be compounded each month.
(Ord. 090397, passed 8-19-97)

§ 115.24 TAX SUPPLEMENTARY.

The tax imposed by this subchapter shall be in addition to other taxes payable to the city.
(Ord. 090397, passed 8-19-97)

§ 115.25 DOCUMENTATION.

It shall be the responsibility of the tax payer to maintain books, records, and papers in support of all amounts reported on the quarterly return. The city shall be permitted to examine the books, records, and papers of the tax payer upon notification in writing to the tax payer of the city's intent to so examine. (Ord. 090397, passed 8-19-97)

§ 115.26 EXEMPTIONS.

The transient room tax imposed by this subchapter shall not apply to rentals paid on occupancies of greater than 90 consecutive days. (Ord. 090397, passed 8-19-97)

§ 115.27 USE OF FUNDS.

The Jackson Tourist and Convention Commission shall receive 10% of all monies collected under this subchapter for the purpose of promotion of tourist and convention business in the city, and the city shall retain the balance of all monies collected under this subchapter in a separate fund to be expended solely for the acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business in the city. Any expenditures to land under this section shall be only to land owned or controlled by the city. (Ord. 090397, passed 8-19-97)

§ 115.28 BOND RETIREMENT.

The City Council shall have the authority to pledge a portion of this tax for the retirement of any bonded indebtedness incurred in acquisition, construction, operation, and maintenance of facilities useful in the promotion of and attraction of tourist and convention business. (Ord. 090397, passed 8-19-97)

§ 115.99 PENALTY.

Any person, company, corporation, group, or organization, or any other entity that knowingly or purposefully refuses to file a return, pay the tax due, or who shall knowingly or purposefully file a false or fraudulent return, shall be guilty of a misdemeanor, subject to a fine of not more than \$300 for each violation. (Ord. 090397, passed 8-19-97)

CHAPTER 116: ALCOHOLIC BEVERAGE CONTROL

Section

- 116.01 General
- 116.02 License requirements
- 116.03 City Alcoholic Beverage Control Administrator
- 116.04 Application and maintenance of license
- 116.05 Hours for sale and delivery
- 116.06 Conditions, prohibitions and restrictions
- 116.07 Minors
- 116.08 Consumption on premises prohibited
- 116.09 Malt beverage keg registration
- 116.10 Enforcement
- 116.11 Mandatory responsible beverage service training
- 116.12 Signs and advertising
- 116.13 Patio and outdoor sales

- 116.99 Penalty

§ 116.01 GENERAL.

(A) This chapter shall be known as the "Alcoholic Beverage Control Ordinance" of the City of Jackson, Kentucky (hereinafter referred to as the "city").

(B) The purpose of this chapter is to establish uniform regulations and requirements for the licensing and regulation of alcoholic beverage manufacture and sales pursuant to authorization under KRS Ch. 241 through 244.

(C) The definitions of the words used throughout this chapter, unless the context requires otherwise, shall have the same meaning as those set out in the alcoholic beverage control laws (KRS Ch. 241 through 244) of the Commonwealth of Kentucky and all amendments and supplements thereto.

(D) This chapter shall be construed to apply to the manufacture and traffic in both malt beverages and distilled spirits and wine where the context permits such application. Nothing in this chapter shall excuse or relieve the licensee, or the owner, proprietor, employee, agent or person in charge of any licensed premises where alcoholic beverages are sold from the restrictions, requirements and penalties of any other ordinance of the city, or of any statutes of the state relating to violations pertaining to alcoholic beverages.

(E) The provisions of the Alcoholic Beverage Control Law of the Commonwealth of Kentucky (KRS Ch. 241 through 244) and all amendments and supplements thereto, are adopted so far as applicable to this chapter except as otherwise lawfully provided herein.
(Ord. 2016-0721, passed 7-25-16; Am. Ord. 2016-0721A, passed 8-5-16)

§ 116.02 LICENSE REQUIREMENTS.

(A) *City licenses.* For the privilege of causing, permitting and engaging in the actions, business, and transactions Authorized thereby in regard to traffic in alcoholic beverages in the city and pursuant to the authority of KRS 243.070, there is hereby established a corresponding city license for each of the state licenses described in KRS 243.070. The fee for each city license shall be as set out in the schedule set forth below. In the event KRS 243.070 shall hereafter be amended to authorize additional city licenses, the fee for each city license shall be the maximum fee provided in the statute as amended.

- (1) Distiller's License, per annum: \$500;
- (2) Rectifier's License:
 - (a) Class A, per annum: \$3,000;
 - (b) Class B (craft rectifier), per annum: \$960.
- (3) Wholesaler's License, per annum: \$3,000;
- (4) Quota Retail Package License, per annum: \$1,000;
- (5) Quota Retail Drink License, per annum: N/A;
- (6) Special Temporary License, per event: \$166;
- (7) Non-quota Type 1 Retail Drink License, per annum (includes distilled spirits, wine, and malt beverages): \$2,000;
- (8) Non-quota Type 2 Retail Drink License, per annum (includes distilled spirits, wine and malt beverages): \$1,000;
- (9) Non-quota Type 3 Retail Drink License, per annum (includes distilled spirits, wine and malt beverages): \$300;
- (10) Special Temporary Alcohol Auction License, per event: \$200;
- (11) Special Sunday Retail Drink License, per annum: \$300;

(12) Extended Hours Supplement License, per annum: \$2,000;

(13) Caterer's License, per annum: \$800;

(14) Bottling House or Bottling House Storage License, per annum: \$2,000;

(15) Brewer's License, per annum: \$500;

(16) Microbrewery License, per annum: \$500;

(17) Malt Beverage Distributor's License, per annum: \$200;

(18) Non-quota Retail Malt Beverage Package License, per annum: \$200;

(19) Non-quota Type 4 Retail Malt Beverage Drink License, per annum: \$200;

(20) Malt Beverage Brew-on-Premises License, per annum: \$100;

(21) Limited Restaurant License, per annum (includes distilled spirits, wine, and malt beverages): \$1,050;

(22) Limited Golf Course License, per annum (includes distilled spirits, wine, and malt beverages): \$1,050;

(23) Authorized Public Consumption License, per annum (if want to allow): \$250.

(B) The fee for each of the first five supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five to the same licensee at the same premises.

(C) The holder of a non-quota retail malt beverage package license may obtain a Non-quota type 4 malt beverage drink license for a fee of \$50. The holder of a Non-quota type 4 malt beverage drink license may obtain a non-quota retail malt beverage package license for a fee of \$50.

(D) *Certain special licenses defined.*

(1) *Limited Restaurant License.* A Limited Restaurant License may be issued pursuant to KRS Chapter 243, if said restaurant meets the definition of a "Limited Restaurant" as set forth in KRS 241.010(31) it is a facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least 70% of its gross income from the sale of food, and which maintains seating capacity of either 100 or 50 persons for dining. If the limited restaurant only maintains seating capacity for 50 persons, it shall not have open bar and all alcoholic

beverages shall be sold in conjunction with the sale of a meal. Distilled spirits, wine, and malt beverages shall be deemed to be purchased in conjunction with a meal if the distilled spirits, wine, and malt beverages are served after the meal is ordered and no more than one-half hour after the meal is completed.

(2) *Limited Golf Course License.* A Limited Golf Course License may be issued pursuant to KRS Chapter 243 if an establishment meets the following conditions: a golf course with nine, or 18, holes that meets United States Golf Association criteria as a regulation golf course. A Limited Golf Course License shall authorize the license to purchase, receive, possess, and sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the licensed premise.

(3) *Non-quota Type 1 Retail Drink License.* A Non-quota Retail Drink License may be issued to, and in the, following as defined by KRS to: a convention center or a convention hotel complex; a horse racetrack; an automobile racetrack; a railroad system; a commercial airlines system or charter flight system, a qualified historic site, and a state park.

(4) *Non-quota Type 2 Retail Drink License.* A Non-quota Retail Drink License may be issued pursuant to and as defined by KRS to the following: (a) a hotel that contains at least 50 sleeping units, contains minimum dining seating for at least 50 persons, and which maintains 50% of its gross food and drinks sales are from the sale of food; (b) a restaurant that contains minimum dining seating for at least 50 persons, and which maintains 50% of its gross food and drinks sales are from the sale of food; (c) an airport; or (d) a river boat.

(5) *Non-quota Type 3 Retail Drink License.* A Non-quota 3 Retail Drink License may be issued pursuant to and defined by KRS to the following: (a) a private club in existence for longer than one year prior to the license application and which excludes the general public; (b) a dining car; (c) a distiller; and (4) a bed and breakfast.

(6) *Non-quota Type 4 Retail Malt Beverage Drink License.* A Non-quota Type 4 Retail Malt Beverage Drink License may be issued pursuant to and as defined in KRS to the following: a holder of a quota retail drink license; a holder of a microbrewery license; a holder of a small farm winery license; and any other business wishing to sell malt beverages by the drink for consumption on the premises only. A Non-quota Retail Malt Beverage Drink License shall not be issued to any premises from which gasoline and lubricating oil are sold, or from which the servicing and repair of motor vehicles is conducted, unless there is maintained in inventory for sale on the premises at retail not less than \$5,000 of food, groceries, and related products valued at cost.

(7) *Special Temporary License.*

(a) A Special Temporary License may be issued only as set forth in KRS 243.260 and 804 KAR 4:250. Such a license may be issued to any regularly organized fair, exposition, racing association, organized civic or community-sponsored event, or charitable event as defined by applicable law. This license shall authorize the licensee to exercise the privileges of a Quota Retail Drink Licensee and a Non-quota Type 4 Malt Beverage Drink Licensee at designated premises for a specified and limited time,

which shall not exceed 30 days and which shall expire when the qualifying event ends. All restrictions and prohibitions applying to a distilled spirits and wine Quota Retail Drink License or a Non-quota Retail Malt Beverage Drink License shall apply also to a Special Temporary Licensee as described in this section.

(b) The City Council, pursuant to KRS 243.072, finds that an economic hardship exists, and that it would aid economic growth and provide community activities encouraging business opportunities if distilled spirit and wine sales by the drink were available as part of a special event license.

(E) *Expiration of license; proration of fees.* All city licenses, except temporary licenses, shall begin on May 1 of any year and shall expire on April 30th of the following year as set forth in KRS 243.090 and 804 KAR 4:390. Any licenses issued after November 30 of any year shall be assessed a fee which is based on the pro rata portion of the remainder of the license period; however, the cost of any license shall not be less than one-half the amount of the full fee for an annual license of that type.

(F) *Payment of license fees; delinquency.* No licensee shall enter into or begin operating any business for which a license is required by this chapter until the license fee has been paid in full. The fee for renewal of any license shall be paid with the renewal application. Failure to pay any license fee within ten days after it becomes due shall result in a penalty equal to 10% of the license fee. Any licensee failing to pay the fees, including penalties, within ten days after such fees are due may be subject to revocation of the license and to other penalties as provided in this chapter.

(G) *Refund of fees.*

(1) Should any licensee under this chapter be prohibited from conducting the licensed business for the full period covered by the license because of any changes that may hereafter be made in the laws of the Commonwealth with reference to alcoholic beverages or other cause outside licensee's control, then the city shall refund to licensee the proportionate part of the license fee for the period during which licensee is prevented from carrying on said business if the licensee provides sufficient proof to the City ABC Administrator that such period of inactivity was not the fault of the licensee or the result of a revocation, suspension or other wrongdoing by licensee, or an agent or employee of the licensee.

(2) In the event a violation of this chapter occurs that results in the suspension or revocation of the license, the city shall not be required to refund any portion of the license fee.

(H) *Regulatory license fee.*

(1) (a) Pursuant to KRS 243.075, there is hereby imposed a regulatory license fee on the gross receipts of sale of alcoholic beverages of each licensee who has a local license issued by the City ABC Administrator. The city's regulatory license fee shall be 6% of gross sales of all alcoholic beverages sold by the drink. In the case of retail sales of package distilled spirits and wine, the regulatory license fee shall be 6% of gross sales. The regulatory license fee shall be 5% on gross retail sales of package malt beverages.

(b) Please note: the City Council may adopt with the budget for each subsequent fiscal year, such annual rate for the regulatory license fee as shall be reasonably estimated to ensure full reimbursement to the city for the cost of any additional policing, regulatory, or administrative expense related to the sale of alcoholic beverages in the city. Should the city fail to address the regulatory license fee in any budget, then the regulatory license fee shall remain at the level at which it was last fixed in this ABC Chapter until such time as the City Council shall adjust the fee.

(2) Payment of said regulatory fee shall be remitted to the City ABC Administrator, who shall transmit all fees to the City Clerk, or his designee, for deposit into the appropriate designated account. The city may use said fees as permitted by law, including but not limited to, any cost of additional policing, regulatory or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other fees or licenses permitted by law, except that a credit against a regulatory license fee in the city shall be allowed in an amount equal to any license fee shall be based on paperwork required by the local and/or state ABC Administrator, which may include but is not limited to tax returns and financial statements. Said paperwork and payment will be due according to the schedule set forth by the Mayor, or his designee, which may be set at, but is not limited to, time periods consisting of a monthly or quarterly billing by the local ABC office and/or the city.

(3) Failure to pay such remittance within ten days of the due date constitutes a violation and shall subject a licensee to suspension or revocation.

(4) Penalty for failure to file a return and pay remittance by the due date is 5% of the regulatory fee for each 90 days or fraction thereof. The total late filing penalty shall not exceed 25% of the regulatory fee; provided, however, that in no case shall the penalty be less than \$10.

(5) Interest at the rate of 8% per annum will apply to any late payments.

(I) *Disposition of fees and any other type of payment to the city.* The City ABC Administrator shall transmit all fees and any other types of payment made to the city, upon collection, to the City Clerk, or his/her designee, for deposit into the appropriate designated account.

(Ord. 2016-0721, passed 7-25-16; Am. Ord. 2016-0721A, passed 8-5-16)

§ 116.03 CITY ALCOHOLIC BEVERAGE CONTROL ADMINISTRATOR.

(A) *Alcoholic Beverage Control Administrator.*

(1) Pursuant to KRS 241.160 and KRS 241.170, there is hereby created the office of the City of Jackson Alcoholic Beverage Control Administrator.

(2) The Mayor of the City appoints an employee or non-elected officer of the City of Jackson to serve as the City Alcohol Beverage Administrator, pursuant to KRS 241.170.

(3) The City Alcohol Beverage Administrator may from time to time appoint such additional personnel, such as Alcohol Beverage Control investigator(s), as is necessary to assist him or her in the administration of this chapter.

(4) The functions of the City ABC Administrator shall be the same with respect to the city licenses and regulations as the functions of the Alcoholic Beverage Control Board of the Commonwealth of Kentucky (hereinafter referred to as ABC Board) with respect to state licenses and regulations.

(5) To prevent potential conflicts of interests, no person shall be a City ABC Administrator, an investigator, or an employee of the city, under the supervision of the City ABC Administrator, who would be disqualified to be a member of the ABC Board under state law set forth in KRS 241.100.

(6) The City ABC Administrator shall have authority delegated by the Mayor, and as authorized under KRS Ch. 241 to 244. The City ABC Administrator, and his investigators, shall have jurisdiction co-extensive with the boundaries of the city. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(7) The City ABC Administrator and his investigators shall have available at all reasonable times for their inspection all books and records required to be maintained by licenses under KRS 244.150 and the City ABC Administrator shall receive copies of all reports submitted by licensee to the State Alcoholic Beverage Control Board.

(8) The City ABC Administrator, before entering upon his or her duties, shall take the oath as prescribed in Section 228 of the Constitution and shall execute a bond with a good corporate surety in the penal sum of not less than \$1,000. Any employee delegated or assigned to the ABC Administration may also be asked to execute a similar bond in such penal sum as the city deems necessary unless said person is already covered under the city's active bonds as required under KRS in regards to officials and employees of the city.

(B) *Appeals.*

(1) Appeals from the orders of the City ABC Administrator may be taken to the state ABC Board by filing with the Board within 30 days a certified copy of the orders of the City ABC Administrator. The Board shall hear matters at issue as upon an original proceeding. Appeals from orders of the City ABC Administrator shall be governed by KRS Chapter 13B.

(2) When any decision of the City ABC Administrator shall have been appealed, or when a protest has been lodged against an application for any license within the city, and the ABC Board shall have made a decision regarding such appeal or protested application, the City ABC Administrator, upon receipt of notice of finality of the decision, shall enter such orders and take such action as required by

the final order of the ABC Board. As provided by law, and as used herein, no order of the ABC Board is final until all appeals or appeal times shall have been exhausted. A "final order" of the ABC Board is the order entered by said Board, unless an appeal is taken from the Board's order, in which case the "final order" is the order entered by the Board upon direction from the reviewing court of last resort in the final order of said reviewing court.

(Ord. 2016-0721, passed 7-25-16; Am. Ord. 2016-0721A, passed 8-5-16; Am. Ord. 092320, passed 9-23-20)

§ 116.04 APPLICATION AND MAINTENANCE OF LICENSE.

(A) *Advertisement.* Before an application for a license shall be considered, the applicant must publish a notice of its intent to apply for an alcoholic beverage license in a newspaper meeting the requirements of KRS Ch. 424, including the following:

(1) The advertisement shall state the name and address of the applicant. It shall state the members of the partnership if the applicant is a partnership, and membership of the LLC if the applicant is an LLC, as well as the name of the business and its address. If the applicant is a corporation, the advertisement shall state the names and addresses of the principal officers and directors of the corporation, as well as the name and address of the corporation itself. All advertisements shall state the location of the premises for which the licenses sought, and the type of license for which application is made.

(2) The applicant shall attach to the application a newspaper clipping of the advertisement and proof of the publication is provided in KRS 424.170.

(B) *Application fee.* A nonrefundable application fee of \$50 shall be paid with the filing of the application for a city license. If the license is granted, the application fee shall be credited against the initial license fee.

(C) *Form of application.*

(1) All licenses granted under this chapter shall be approved by the City ABC Administrator. Applications for the issuance of new licenses and for renewals of existing licenses shall be in writing and upon the forms provided by the Kentucky ABC Board and/or the city, both of which may be amended and supplemented from time to time by each respective agency.

(2) The application shall be verified and shall set forth in detail such information concerning the applicant and the premises for which the license is sought, as required by the Kentucky Revised Statutes, the state ABC Board, and the city, including as follows:

(a) Name and address;

(b) Nature of interest;

(c) Whether or not a citizen of the United States;

(d) Date of birth;

(e) Date of residence was established in Kentucky, if a resident of Kentucky;

(f) Whether or not he or she has any interest in any other license or LLC, corporation, partnership or other business organization holding a license under this chapter;

(g) Extent of stock or company ownership;

(h) Whether or not he or she has any interest in any license or LLC, corporation, partnership or other business organization holding a license in any other state or province.

(3) Each application shall be accompanied by a certified check, cashier check, or money order for the amount of the license fee, less the \$50 application fee.

(4) In addition to the above specified information, the applicant shall file, with the application, responses to any additional questions as may be posed or prescribed by the City ABC Administrator. The City Council has adopted a statement of guidelines and priorities for the issuance of licenses within this chapter to determine the extent to which applications may further, or impede, the objectives of those guidelines. Therefore, in addition to the information contained in the application, the City ABC Administrator may require such other information as the Administrator may, in his or her discretion, deem desirable, reasonable, or appropriate to the consideration of the application.

(D) *Other conditions.* In addition to any other inquiries, conditions or considerations required or permitted by law:

(1) The City ABC Administrator shall not grant any alcoholic beverage license or approve a renewal of a license until the applicant and his or her place of business shall have been approved by a licensed building inspector, and any and all other inspections required by the Kentucky Building Code or other applicable law;

(2) All applicants shall voluntarily submit to a criminal background check and shall sign a waiver allowing the release of this information to the City ABC Administrator;

(3) No license to sell alcoholic or malt beverages may be granted or renewed to any person who is delinquent in the payment of any property taxes, both real and personal, any other taxes due to the city, fees of any type, or charges due to any department of the city at the time of issuing the license, nor may any license be granted or renewed to sell upon any premises or property, owned and occupied by the licensee upon which there are any of the above delinquent payments due and owing to the city. Further, if a licensee becomes delinquent in the payment of any of the above at any time during the license period, the license to sell alcoholic or malt beverages may be subject to revocation or suspension;

(4) No person, whether applicant for license, or a licensee, shall in any manner attempt to bribe, threaten, unduly influence or intimidate the City ABC Administrator, or any member of the city's staff, or any state ABC Administrator or staff, in any manner in which an application or proposed application for license, or procedure for revocation or suspension is pending before such officer. This division is not intended to stifle expressions of opinion; however, it is intended to make clear that the ABC Administrators are public officials charged with the administration and enforcement of the law, both local and state. Any person applying for a license, or contesting the revocation or suspension of a license, who engages in attempted bribes, threats, attempted undue influence or intimidation of a city or state ABC Administrator or staff shall be disqualified from receiving or retaining a license, in addition to other penalties as provided by law. The procedures for appeals shall apply to disqualifications, revocations or suspensions under this chapter. Nothing in this chapter shall be interpreted to prohibit monetary settlements in lieu of revocation or suspension of license after a final order or revocation or suspension, where the chapter and applicable statutes allow for such payments in settlement.

(E) *Form of license.* All city licenses shall be in such form as may be provided by the ABC Administrator, but at the least shall contain:

- (1) The name and address of the licensee;
- (2) The number of the license;
- (3) The type of license;
- (4) A description by street and number, or otherwise, of the licensed premises;
- (5) The name and address of the owner of the building in which the licensed premises are located;
- (6) The expiration date of the license; and
- (7) A statement in substance that the license shall not be a property or vested right and that it may be revoked at any time pursuant to law.

(F) *Change of information.*

(1) If after a license to individuals or to a sole proprietor has been issued, there is a change in any fact required to be set forth in the application, a verified amendment in writing giving notice of the change shall be filed with the City ABC Administrator with ten days of the change.

(2) Since a number of licenses issued by the city are in the name of corporations or other business organizations, it is necessary that ownership changes in such organizations be reported to the City ABC Administrator. The City ABC Administrator can, therefore, investigate the person to whom the ownership or management is transferred in order to ascertain whether that person is precluded by statute from holding an interest in an alcoholic beverage license.

(3) As used with regard to a partnership, corporation, LLC or other business organization herein, the word "change" is construed to include any change in managers, partners or LLC members, directors or officers of the corporation, or change in ownership or stock whereby any person secures 10% of the outstanding ownership or stock. Transfer of more than 10% of the total ownership or stock shall require a new license.

(4) The following information shall be required concerning any new manager, partner or LLC member, new director, officer, or person securing any interest in alcoholic beverage license:

(a) Name and address;

(b) Nature of interest;

(c) Whether or not a citizen of the United States;

(d) Date of birth;

(e) Date residence was established in Kentucky, if a resident of Kentucky. If a Somerset resident, indicate when residence was established;

(f) Whether or not he or she has any interest in any other license or in any LLC, corporation, partnership or other business organization holding a license under this act;

(g) Extent of stock or company ownership;

(h) Whether or not he or she has any interest in any license or in any LLC, corporation, partnership or other business organization holding a license in any other state or province.

(5) This information shall be filed with the City ABC Administrator as a verified amendment of the application pursuant to which the license was granted. Filing shall be made within ten days of any change of required information.

(G) Renewal of license.

(1) Every year, except in the case of the temporary licenses, each licensee shall renew its license. All renewal licenses must be on file with the City ABC Administrator no less than 30 days prior to the expiration of the license for the preceding license period or the same shall be canceled, except where the licensee is unable to continue in business at the same premises licensed during the preceding license period as a result of construction, act of God, casualty, death, the acquisition or threatened acquisition of the premises by any federal, state, city or other governmental agency or private organization possessing power of eminent domain, whether such acquisition is voluntary or involuntary,

or loss of lease through failure of landlord to renew existing lease; provided that said licensee shall file a written verified statement no less than 20 days from the expiration date of the license, setting forth these facts, and the City ABC Administrator is hereby authorized to extend the time for filing of a renewal of such license for a reasonable length of time within the sound discretion of the City ABC Administrator; provided, however, such licensee shall pay a license fee from the expiration date of the former license or licenses. Said license fee shall not be payable until application is made for the transfer of said license to a new location.

(2) The renewal by the City ABC Administrator of the license shall not be construed to be a waiver or acceptance of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee.

(H) *Lost or destroyed license.* When a license shall be lost or destroyed without fault on the part of the licensee or his or her agent or employee, a duplicate in lieu of the original license shall be issued by the City ABC Administrator after the Administrator shall have been satisfied as to the facts; provided, however, that the applicant for said duplicate license shall pay a fee of \$10 for the duplicate license.

(I) *Revocation or suspension.*

(1) Any license may be revoked or suspended by the City ABC Administrator if the licensee shall have violated any of other provisions of KRS Ch. 241 through 244, or any rule or regulation of the ABC Board, or of the Kentucky Department of Revenue, relating to the regulation of the manufacture, sale, and transportation, or taxation, of alcoholic beverages or if such licensee shall have violated or shall violate any act of Congress or any rule or regulation of any federal board, agency or commission, or this chapter now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale, and transportation, or taxation, of intoxicating liquors, or any rules or regulations of the city heretofore in existence or authorized by the terms of KRS Ch. 241 through 244 to be created, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his or her instructions, or any such license may be revoked or suspended for any cause which the City ABC Administrator in the exercise of his or her sound discretion deems sufficient.

(2) A license may be revoked for any of the reasons for which the City ABC Administrator would have been required to refuse a license if the facts had been known.

(3) In addition to the foregoing stated causes, any license may be revoked or suspended for the following causes:

(a) Conviction of the licensee or his or her agent or employee for selling any illegal beverages on the premises licensed.

(b) Making any false, material statements in an application for a license.

(c) If within a period of two consecutive years, any licensee or any clerk, servant, agent or employee of the licensee shall have been convicted of two violations of the terms and provisions of KRS Chapter 241 through 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if within such period, any licensee or any clerk, servant, agent or employee of the license shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of alcoholic beverages, or of one such felony and one such misdemeanor.

(d) Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, this chapter, or acts of Congress relative to taxation or for a violation of any rules or regulations of the Kentucky Department of Revenue made in pursuance thereof.

(e) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

(J) *Proceedings for revocation or suspension of license.*

(1) Upon the verified complaint of any person, or on the initiative of any law enforcement officer, or of the City ABC Administrator, the City ABC Administrator may institute proceedings to revoke or suspend any license granted under this chapter. A license may be revoked or suspended only after the licensee shall have been given written notice, by certified or registered mail, of the proposed revocation, including notice of the reasons for such proposed action. The licensee shall be given opportunity to be heard in opposition to the proposed revocation or suspension. The notice of proposed action shall advise the licensee of the date, time and place of the hearing. Notice shall be sufficient if mailed to the licensee at the address shown in the last application for a license or in the last statement supplemental to or in amendment of the application, whether or not the mailing is receipted for or claimed.

(2) The specific procedures to be followed in hearings on actions for revocation or suspension shall be those set out in the Kentucky Administrative Procedure Act (KAR Chapter 13B).

(3) A decision of the City ABC Administrator revoking or suspending a license may be appealed as provided in KRS 243.550.

(4) Within three days after any order of revocation or suspension of a license becomes final, notice of revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to the application shall be deemed sufficient

compliance with this section. The licensee shall at once surrender his or her license to the City ABC Administrator. If the revoked or suspended license is not forthwith surrendered by the licensee, the Chief of Police, at the request of the City ABC Administrator, shall immediately cause one of his or her officers to take physical possession of the license and return it to the City ABC Administrator.

(5) When a license has been revoked or suspended, the former licensee may, with prior approval of the City ABC Administrator, dispose of and transfer his or her stock of alcoholic beverages to an appropriate entity.

(6) Appeal from the decision of the City ABC Administrator revoking or suspending a license shall be to the ABC Board. The timely filing of an appeal shall stay further proceedings for revocation.

(7) If a license is revoked or suspended by an order of the City ABC Administrator, and the decision is not appealed, the licensee shall at once suspend all operations authorized under his or her license. Upon the entry of a final order of the ABC Board sustaining or ordering revocation or suspension on appeal, the licensee shall at once suspend all operations authorized under this license.

(K) *Transfer or assignment.* No license issued under this chapter shall be transferred or assigned either as to licensee or location except with prior approval of the City ABC Administrator and not then until a payment of \$100 shall be made to the City ABC Administrator.

(L) *Refusal of license; guidelines for approval of quota licenses.*

(1) The City ABC Administrator may refuse to issue a license for any of the following reasons:

(a) Causes for refusal to issue or renew a license and for suspension or revocation of a city license shall be the same as provided for state licenses according to KRS 243.450, 243.490 and 243.500, as well as violation of any city ordinance regarding alcohol beverage licensing, sales or the administration thereof.

(b) If the applicant has done any act for which a revocation of license would be authorized under local, state, or federal law; or

(c) If the applicant has made any false material statement in his or her application.

(2) An applicant who has been refused a license by the City ABC Administrator may appeal the refusal to the ABC Board pursuant to KRS 241.200.

(M) *Review of license; books, records and reports.*

(1) Applicants to whom a license is issued pursuant to this chapter shall provide periodic information demonstrating compliance with the conditions of any license, such as, but not limited to, the continuing requirement that a minimum percentage of the applicant's business income is earned from the

sale of food. This documentation shall be provided on a schedule to be coordinated with the applicant's quarterly regulatory fee filings. The city shall provide the form schedule to the licensee. The licensee's acceptance of a license to manufacture or traffic in alcoholic beverages shall constitute consent to the filing of the quarterly report. In the case of caterer filing, the quarterly report shall identify each catered event by type of event, date and address of the event, and shall provide a per event breakdown of sales and the ratio of food sales to alcohol sales during the reporting period. This requirement for filing of reports notwithstanding, the city may at any time come upon the premises of any licensee and examine the books and records to determine whether the licensee is in compliance with all parts of this chapter. In the event the conditions of any license requirement are not met during any particular quarter, the City ABC Administrator shall have discretion in determining whether revocation is appropriate or whether the licensee may be allowed a reasonable period of time to reach compliance. If a good faith effort is demonstrated by the licensee, the City ABC Administrator may apply an accounting period of at least one year in determining whether or not the food sale percentage requirement has been met.

(2) Every licensee under this chapter shall keep and maintain, upon the licensed premises, adequate books and records of all transactions involved in the sale of alcoholic beverages in the same manner required by the rules and regulations of the ABC Board. Such books and records shall be available at all reasonable times for inspection by the City ABC Administrator and such city employees who may assist the City ABC Administrator in his or her review.

(3) For the purpose of assisting the City ABC Administrator in enforcement of this chapter, every licensee required to report to the ABC Board under KRS 243.850 shall provide a copy of such report to the City ABC Administrator. Copies of any and all reports and correspondences to the ABC Board required by statute shall be furnished to the City ABC Administrator.

(N) *Dormancy.*

(1) It is necessary that a licensee actually conduct the business authorized by such a license or else the license will be declared dormant and become null and void after 90 days. Such is the intent of this section. Realizing that a licensee, like other business, may have his or her business interrupted by situations not under his or her control, various exceptions to the dormancy rule have been included in this section.

(2) Any license under which no business is transacted during a period of 90 days shall be deemed inactive and, unless the conditions set forth in division (N)(3) below are proved to the satisfaction of the City ABC Administrator, the license shall be surrendered to the City ABC Administrator. If the license is not voluntarily surrendered, it shall be revoked by the City ABC Administrator.

(3) The provisions of division (N)(2) hereof shall not apply to any licensee who is unable to continue in business at the premises for which a license is issued due to construction, an act of God, casualty, death, the acquisition of the premises by any federal, state, city or other governmental agency under power of eminent domain, whether acquisition is voluntary or involuntary, or loss of lease through

failure of landlord to renew existing lease. Prior to the expiration of 90 days of inactivity, such licensee shall furnish to the City ABC Administrator a verified statement setting forth the fact that the licensee is unable to continue in business, for any of the specific reasons set forth herein, and the City ABC Administrator may grant an extension of the dormancy with the license continuing to remain in effect during the license period or until same is transferred to another premises, notwithstanding the fact that no business is transacted during said period; provided, however, no such license shall be considered valid unless business is conducted there under within 12 months from the date of notice to the City ABC Administrator. Such extension may not extend beyond the renewal date but may be for such times as the City ABC Administrator deems appropriate in exercise of his or her sound discretion. (Ord. 2016-0721, passed 7-25-16; Am. Ord. 2016-0721A, passed 8-5-16)

§ 116.05 HOURS FOR SALE AND DELIVERY.

(A) A licensee for distilled spirits, wine and/or malt beverages shall be permitted to sell or dispense distilled spirits, wine and/or malt beverages between the hours of 8:00 a.m. until 12:00 a.m.

(B) A licensee of a premises holding a Non-quota 2 drink license shall be allowed to remain open during hours when the sale of alcoholic beverages is prohibited for the sole purpose of providing food services to the public. However, all stocks of alcoholic beverages shall be locked and closed off from the public during said time period.

(C) All license holders shall not be allowed to sell alcoholic beverages on Easter and Christmas Day regardless the day of week.

(D) All license holders shall not be allowed to sell alcoholic beverages on New Year's or New Year's Eve if these holidays fall on a Sunday. (Ord. 2016-0721, passed 7-25-16; Am. Ord. 2016-0721A, passed 8-5-16)

§ 116.06 CONDITIONS, PROHIBITIONS AND RESTRICTIONS.

(A) *Gambling.* No gambling or game of chance unless otherwise authorized by the Commonwealth of Kentucky shall be permitted in any form on such licensed premises. Dice, slot machines, quarter pushers, prize redemption machines with programmable payouts, or any device of chance is prohibited and shall not be kept on such premises.

(B) *Radio receiving apparatus.* It shall be unlawful for any licensee licensed under this chapter to have, or maintain, any radio receiving apparatus on such premises which is intentionally adjusted so as to receive police messages broadcast from any law enforcement agency in City of Jackson/Breathitt County as it is now, or may hereafter be operated. In addition to other penalties provided for the violation of this section, the Chief of Police/ABC Administrator, or his or her designated investigator, shall have the authority to confiscate any and all such radio receiving apparatus.

(C) *Security.* The licensee shall be responsible for maintaining security on his or her premises including providing adequate outside lighting to permit customers to utilize the parking area and to promote the safety, health and welfare of the general public utilizing the licensed premise. Security standards are further necessary to discourage unlawful activity in and around the licensed premises.

(D) *Prizes and premiums prohibited.* It shall be unlawful for a licensee to give away or offer to give away anything tangible of value as a premium or prize, or for any other purpose in direct connection with the sale of malt beverages unless permitted by KRS 244.500.

(E) *Treating prohibited.* It shall be unlawful for the licensee under this chapter to give away any alcoholic beverage in any quantity for free or for less than a full monetary consideration unless the licensee holds a sampling license or its license type permits limited free samples (i.e., small farm winery, microbrewery, brewer's) or products are sampled at educational event authorized by 804 KAR 1:110 and 804 KAR 11:030.

(F) *Drunkenness.* No licensee or agent or employee of the licensee shall permit any person to become drunk or intoxicated on the premises, nor shall any licensee sell alcoholic beverages to any person who is actually or apparently under the influence of alcoholic beverages, or known to the seller or server to be an habitual drunkard or any person known to the seller or server to have been convicted of drunkenness as many as three times within the most recent 12-month period. No licensee shall permit any person who is actually or apparently under the influence of alcoholic beverages to remain on the licensed premises. As used herein, whether a person is actually or apparently under the influence of alcoholic beverages shall be determined by the licensee or server with specific reference to the principles and guidelines established in mandatory alcohol server training as to the signs of alcohol intoxication.

(G) *Underage sales.* The licensee shall not sell or dispense alcoholic beverages to any person who is under 21 years of age.

(H) *Sign requirements-notice to persons under the age of 21.* Per state law, the licensee shall display at all times in a prominent place a sign at least eight inches by 11 inches in 30-point or larger type font which states as follows:

Persons under the age of twenty-one (21) are subject to a fine of up to One Hundred Dollars (\$100.00) if they:

- (1) Enter licensed premises to buy, or have served to them, alcoholic beverages.
- (2) Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.
- (3) Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

(I) *License to be displayed.*

(1) Pursuant to the requirements set forth in KRS 243.895, the licensee, before commencing any business for which a license has been issued, shall post and display at all times in a conspicuous place in the room or principal room where the business is carried on so that all persons visiting the place may readily see the license. The licensee shall not at any time post the license on premises other than the licensed premises or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly deface, destroy or alter the license in any respect.

(2) The licensee shall post in a prominent place easily seen by patrons a printed sign at least 11 inches by 14 inches in size, with letters at least one-inch high, supplied by the Department of Alcoholic Beverage Control, and with gender-neutral language supplied by the Kentucky Cabinet for Health and Family Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects. A person who violates this section shall be subject to a fine of not less than \$10, nor more than \$50.

(J) *Legal transactions for wholesalers, distributors and retail.* No wholesaler or distributor shall sell any alcoholic beverages to any person in the city for any consideration except under cash terms of the wholesaler or distributor at or before the time of delivery. A wholesaler is also permitted to extend credit for 30 days to a retailer for the purchase of distilled spirits and wine. No retail licensee shall sell to a consumer for any consideration except for cash or case equivalent at time of purchase.

(K) *Employment restrictions.* No licensee shall knowingly employ in connection with his or her business any person who:

(1) Has been convicted of any felony within the last two years unless permitted by KRS 244.090(2);

(2) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two years unless permitted by KRS 244.090(2);

(3) Is under the age of 20 years who will be serving alcoholic beverages or who will be having any contact whatsoever with the sale of alcohol as defined under state statute, unless said person is exempt or permitted by KRS 244.090;

(4) Within two years prior to the date of his or her employment, has had any city license under this chapter revoked for cause.

(L) *Lavatory facilities required.* All retail beer and retail drink licenses shall be required to provide indoor or outdoor lavatory facilities for their customers where such beverages are consumed on the premises.

(M) *Nudity and adult entertainment activities prohibited.* No licensee shall offer or permit nudity, adult entertainment activities, including nude or nearly nude dancing, adult motion picture, television, slide or stage shows, cabarets or sexual entertainment centers on any licensed premise. No licensee shall permit explicit sexual activity, whether actual or simulated, upon any licensed premises. No licensee

shall sponsor or permit wet t-shirt or wet clothing contests, lingerie fashion shows, mud wrestling, jello wrestling or similar activities, nor shall a licensee allow dancing with touching for compensation (including but not limited to wages, tips or gratuities), or any other service, display or contest requiring physical contact between patrons and/or patrons and employees on any licensed premises. No licensee shall sponsor, offer or permit drinking contests, all-you-can-drink specials or free drinks on any licensed premise in the city.

(N) *Cause for revocation.* Violation of this and any other section shall subject the licensee to penalties provided in this chapter and shall be cause for revocation or suspension of city licenses. (Ord. 2016-0721, passed 7-25-16; Am. Ord. 2016-0721A, passed 8-5-16)

§ 116.07 MINORS.

(A) Except as specifically authorized under KRS Ch. 241 through 244, no person under the age of 21 may possess alcoholic beverages or enter onto any licensed premises for the purpose of acquiring alcoholic beverages.

(B) As provided in KRS 244.085, no person under the age of 21, except in the company of a parent or guardian, may enter any premises licensed for the package sale of alcoholic beverages. No person under the age of 21, may enter any premises licensed for drink sales of alcoholic beverages unless permitted by KRS 244.085(6). For purposes of this prohibition, "premises" specifically encompasses the entire lot upon which a licensed establishment is situated, including any drive-up window. The prohibition contained in this division shall not apply to premises where the usual and customary business of the establishment is a gas station, convenience store, grocery store, drugstore, or similar establishment.

(C) No person shall knowingly permit, aid, assist, induce, cause or otherwise encourage any minor to be in possession of, use or consume alcoholic beverages. All licenses, as set out in this chapter, shall require proof of age of all persons attempting to purchase or consume alcoholic beverages on the licensee's premises.

(D) No person being the owner or occupant or otherwise in possession or control of any property located within the city shall knowingly allow any minor to remain on such property while in possession of, using or consuming alcoholic beverages.

(E) It shall be a defense to any prosecution under this section if the person charged, upon discovery of said minor individuals, manifests a proper effort to enlist the aid of and cooperate with law enforcement personnel in stopping the minor individuals' possession, consumption or use of alcoholic beverages, or that the minor individuals' possession of alcoholic beverages was exempted by KRS 244.090.

(Ord. 2016-0721, passed 7-25-16; Am. Ord. 2016-0721A, passed 8-5-16)

§ 116.08 CONSUMPTION ON PREMISES PROHIBITED.*(A) Consumption at package store prohibited.*

(1) No licensee of a package store, whether trafficking in distilled spirits, wine or malt beverages, shall permit consumption of alcoholic beverages on the premises unless it also holds the appropriate drink license. The licensee shall post a prominent notice on the premises stating that consumption of alcoholic beverages on premises is prohibited.

(2) This restriction regarding on premises consumption shall not prohibit sampling as allowed for microbreweries And wineries under the provisions of KRS Ch. 243, or where sampling is permitted for a retail distilled spirits and wine licensee under the provisions of KRS 244.050, or beer tastings as permitted in 804 KAR 11:030.

(B) Habitual congregating.

(1) *Definitions.* In addition to the definitions contained in KRS Chapters 241 through 244, as used in this section, the following terms are defined as follows:

HABITUAL. Consistent, that is, by frequent practice or use, but not necessarily constant or exclusive.

PACKAGE LIQUOR STORE. A retail establishment selling distilled spirits, wine and malt beverages in package containers pursuant to licenses issued for those purposes.

PUBLIC NUISANCE. Any activity that endangers or interferes with the general use and enjoyment of neighboring property, passers-by or the health, safety and welfare of the public.

VACANT PROPERTY. A vacant lot on which no building or other structure exists or property on which any structure is unoccupied or unused, or which otherwise reflects abandonment by the owner or person with the right of occupancy.

(2) *Licensed premises.* No person or entity operating a package liquor store, whether trafficking in distilled spirits, wine or malt beverages, including retail package beer licensees, shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of the licensed premises so as to constitute a public nuisance.

(3) *Vacant property.* No person or entity being the owner or otherwise in possession or control of any vacant property shall knowingly allow or permit habitual congregating of persons on the unenclosed portion of such property so as to constitute a public nuisance.

(4) It shall be a defense to any prosecution under this section, if a licensed vendor or property owner shall permit the city of post and maintain a legible, painted or printed sign in at least two separate prominent places in such area, in letters of not less than three inches in height, stating that 21 congregating of persons in prohibited and that violators shall be prosecuted for trespass pursuant to KRS 511.080.

(Ord. 2016-0721, passed 7-25-16; Am. Ord. 2016-0721A, passed 8-5-16)

§ 116.09 MALT BEVERAGE KEG REGISTRATION.

(A) *Definitions.* As used in this section, *KEG* is defined as a container designed and capable of holding six or more gallons of malt beverage.

(B) *Malt beverage keg identification tag.* All retail licensees (herein after referred to as "licensee") operating within the city who sell malt beverages in kegs for consumption off the premises of the licensee shall attach a numbered identification tag or other device as provided by the city to each keg at the time of sale and shall require the purchaser to complete and sign a keg registration form for the keg stating the following:

(1) The purchaser is of legal age to purchase, possess and use the malt beverage;

(2) The purchaser is not purchasing the keg for resale and will not allow any person under the age of 21 to consume the malt beverage;

(3) The purchaser will not remove, obliterate or allow to be removed or obliterated the identification tag;

(4) The purchaser will state the property address where the keg will be consumed and physically located; and

(5) The purchaser is aware of his/her duty to maintain a copy of the keg registration form visible and readily accessible from the location of the keg.

(C) *Keg registration.*

(1) The licensee shall obtain the name, address and telephone number of the purchaser and shall require the purchaser to produce a valid driver's license number and, if that is not available, to produce at least one other valid form of identification.

(2) The licensee shall retain copies of the keg registration forms for a period of one year and shall make the keg registration form available for inspection by state and local alcoholic beverage control officers and other enforcement officers.

(3) The keg registration form shall be forwarded to the city within five working days in all situations when the keg is not returned or is returned with the identification tag removed or obliterated.

(4) The city is authorized to develop appropriate rules and regulations and to develop and make available forms for the identification tags and keg registration forms.

(5) All licensees that sell or offer for sale kegs shall post on the licensed premises a notice provided by the city concerning the provisions of this section.

(D) *Unlawful sales.* It shall be unlawful for any licensee to sell or offer for sale kegs without the identification tags attached and the keg registration form completed. It shall also be unlawful for any person to remove or to obliterate the identification tag or to fail to have the declaration form visible and readily accessible from the location of the keg. The penalties for violation of this section shall be the penalties as set out in this chapter. In addition, licensees violating this section shall be subject to appropriate alcoholic beverage control administrative remedies.

(Ord. 2016-0721, passed 7-25-16; Am. Ord. 2016-0721A, passed 8-5-16)

§ 116.10 ENFORCEMENT.

City police officers and the City ABC Administrator and his/her investigator(s) are hereby authorized to enforce this chapter in full.

(Ord. 2016-0721, passed 7-25-16; Am. Ord. 2016-0721A, passed 8-5-16)

§ 116.11 MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING.

Mandatory responsible beverage service training.

(A) All persons employed in the selling and/or serving of alcoholic beverages shall participate in and complete the Kentucky S.T.A.R. program.

(B) All persons required to complete training under division (A) above shall complete that training within 30 days of the date on which the person first becomes subject to the training requirement. When a new business is licensed to serve alcoholic beverages all employees must be trained prior to the opening of the business.

(C) Each licensee shall be responsible for compliance with the training requirements and shall maintain for inspection by the City ABC Administrator a record or file on each employee that shall contain the pertinent training information. Each premise licensed hereunder must at all times when alcoholic beverages are being served have at least one person currently certified in responsible beverage service training on duty as described herein.

(D) All persons completing the training required by this section shall be re-certified not less than once every three years thereafter.

(Ord. 2016-0721, passed 7-25-16; Am. Ord. 2016-0721A, passed 8-5-16)

§ 116.12 SIGNS AND ADVERTISING.

(A) All signage shall be in compliance with any and all other existing rules, regulations, and Ordinances of the City of Jackson, including but not limited to, the Planning and Zoning Ordinance as currently enacted, and/or as may be amended in the future.

(B) No flashing lights shall be used to illuminate the exterior of any premises licensed under this chapter.

(C) Any advertising by any licensee under this chapter shall be in compliance with KRS 244.130 and regulations promulgated thereunder.

(D) No licensee shall publish or display advertising that is false or misleading, nor shall any licensee publish or display advertising that implies that consumption of alcoholic beverages is fashionable or the accepted course of behavior, or advertising that contains any statement, picture or illustration implying that the consumption of alcoholic beverages enhances athletic prowess, whether or not any known athlete is depicted or referred to, nor shall any licensee publish or display advertising that encourages intoxication by referring to the intoxicating effects of alcohol (or the use of terms such as "high test", "high proof" or "extra strong") or depicting activities that tend to encourage excessive consumption.

(F) No licensee shall erect or allow to be erected any banner that displays any particular brand of alcoholic beverage on the outside of the building or on the property.

(G) Any off premises signage advertising the sale of alcoholic beverages is prohibited. It shall be unlawful to attach signage advertising alcoholic beverages to the exterior of the building or the exterior premises of the business. This prohibition shall include the use of outdoor umbrellas or other outdoor or patio fixtures that feature the name or logo of an alcoholic beverage or manufacturer of alcoholic beverages.

(H) Signage which refers directly or indirectly to alcoholic beverages will be limited to one sign not over two square feet that must be displayed from the inside of the window or interior of the business. No additional signs, banners, posters or other type of displaying advertising which refers either directly or indirectly to alcoholic beverages shall be displayed on, nor shall it be visible from the exterior of any premises licensed for the sale of alcoholic beverages, except that reference to such may be included in the name of the business. This restriction shall not prevent any licensee from placing in the windows of the licensed premises business cards not larger than two and one-half inches in size, setting forth the price at which the licensee offers alcoholic beverages for sale.

(I) It shall be unlawful for a licensee under this chapter to distribute or cause to be distributed any handbills, circulars, or cards as a medium of advertising alcoholic beverages.

(J) No licensee shall advertise alcoholic beverages on any municipally owned property or at any municipally sponsored event.

(Ord. 2016-0721, passed 7-25-16; Am. Ord. 2016-0721A, passed 8-5-16)

§ 116.13 PATIO AND OUTDOOR SALES.

(A) *Patio and outdoor sales regulations.*

(1) Patio and outdoor sales of alcoholic beverages shall be permitted only on premises licensed for sales of alcoholic beverages by the drink.

(2) No licensee shall offer alcoholic beverages for sale in a patio or outdoor area of the licensee's premises except in a clearly defined patio or outdoor area that is enclosed by a fence or other screening, not less than four feet in height. All outdoor areas and screening shall be subject to the approval of the City ABC Administrator. An exception to this restriction may be granted for seasonal sidewalk cafes, upon application to and authorization from the ABC City Administrator. The permission to operate a sidewalk café shall be governed by the provisions of this section and shall be subject to the regulation of local zoning authorities as well as codes enforcement and public safety officers.

(3) No licensee shall offer patio or outdoor sales of alcoholic beverages unless the patio or outdoor area and fencing or screening area shall have been approved in advance by the ABC administrator.

(4) Unless exempted by the following provisions of this chapter, and by permission of the City ABC Administrator, patio areas must comply with the screening requirements of this chapter. Sidewalk café seating areas must comply with this chapter and with local zoning laws and other public safety requirements noted in this chapter, or in other local ordinances, statutes or regulations.

(B) *Exception(s) to screening requirements for outdoor sales and service of alcoholic beverages, specifically, permitted sidewalk cafes in the city's downtown business area.*

(1) Licensees in the downtown business district/area may request an exception from the outdoor screening of patio provision in order to permit seasonal sidewalk cafes that serve food and alcoholic beverages as an adjunct to the primary and adjacent licensed premises. In the case of permitted sidewalk cafes, they shall be deemed part of the licensed premises.

(2) Any food establishment which operates a restaurant and is licensed under this chapter and the provisions of the state ABC code, may, upon application to the local ABC Administrator, ask permission to expand the operation of that restaurant onto a part, and only that part, of the public sidewalk which immediately adjoins the licensed premises (hereinafter referred to as "sidewalk café"). Licensees who do not serve food shall not be eligible to apply for a sidewalk café permit.

(C) *Conditions for sidewalk café permit.* The issuance of a permit shall be subject to the following conditions and restrictions; provided, however, that the ABC Administrator may without adverse hearing procedures impose additional reasonable restrictions or withdraw approval upon the operation of any sidewalk café where necessary in the judgment of the said Administrator to protect the public health, safety or welfare or to prevent a nuisance from developing or continuing:

(1) No sidewalk café shall be permitted in any portion of the public sidewalk where normal pedestrian traffic flow is obstructed. A minimum clearance width of 36 inches must be maintained on the public sidewalk at all times. The sidewalk café shall not be permitted in any manner to obstruct the entrance/exit to the restaurant.

(2) No tables, chairs or any other furnishings, except plant tubs, shall be placed in the area used for the sidewalk café during any period when the sidewalk café is not open and being operated. They shall be removed at the end of each business day at the hour specified in the permit. Umbrellas, tables, chairs, and other portable appurtenances shall be confined to the area shown on the approved permit. While such café is in operation, all tables and chairs shall be kept in a clean, sanitary condition.

(3) The use of a portion of the public sidewalk as a sidewalk café shall not be an exclusive use. All public improvements, including but not limited to, trees, light poles, traffic signals, pull boxes or manholes, or any public-initiated maintenance procedures, shall take precedence over said use of the public sidewalk at all times.

(4) The licensee shall, in addition to all other requirements of law, take reasonable steps to insure that alcoholic beverages are consumed only by patrons of the establishment who are of age, and not by passers-by or persons who are not of age or who are obviously or apparently intoxicated.

(5) No disposable cups or drinking vessels may be used and the licensee shall not permit any alcoholic beverages to be taken off premises by patrons, customers or guests.

(6) No amplified sound shall be used within a sidewalk café. At no time shall any music originating from any part of the premises create a nuisance.

(7) Dancing shall not be permitted or allowed in the sidewalk café.

(8) The licensee must at all times comply with all federal, state and local laws regarding the sale, service and consumption of alcohol and the operation of the premises.

(9) The permit for sidewalk café may not be assigned or transferred.

(D) *Other requirements applicable to sidewalk cafes.* No sidewalk café permit shall be effective unless the licensee has filed with the City Administrator evidence of insurance, insuring the licensee against liability imposed by law arising out of the ownership, maintenance or operation of such sidewalk café, in an amount to be established by the City Attorney and the City's Safety Coordinator. The city shall be named an additional insured in the policy required. Such insurance policy shall further provide expressly that it may not be canceled except upon ten day's written notice (or more) filed with the ABC Administrator and the City Attorney.

(Ord. 2016-0721, passed 7-25-16; Am. Ord. 2016-0721A, passed 8-5-16)

§ 116.99 PENALTY.

(A) In addition to any criminal prosecution instituted in Breathitt District Court against an alleged violator, the City ABC Administrator may assess civil fines in lieu of suspension as authorized in KRS 243.480, including the per diem assessments for ongoing violations. Payment of all fines shall be remitted to the City ABC Administrator, who shall then transmit the fines to the City Clerk for deposit in the appropriate designated account.

(B) Any person, firm or corporation who violates any of the provisions of this chapter, for which no other penalty is hereby provided, shall be guilty of a misdemeanor, and subject to prosecution in the Breathitt County Court System, as follows: for the first offense, be fined not less than \$100 nor more than \$200 nor more than \$500, or imprisoned for not more than six months, or both. The penalties provided for in this division shall be in addition to the revocation or suspension of the offender's license. If the offender is a corporation, LLC, joint stock company, association or other business organization, or a fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

(Ord. 2016-0721, passed 7-25-16; Am. Ord. 2016-0721A, passed 8-5-16)

CHAPTER 117: PAIN CLINICS

Section

117.01 Operation of pain clinics prohibited

§ 117.01 OPERATION OF PAIN CLINICS PROHIBITED.

(A) There shall be no new pain clinics opening for business in the City of Jackson, Kentucky. It shall be unlawful and shall be considered a public nuisance, subject to closure and injunctive limitations by any court of competent jurisdiction.

(B) The operation of any such pain clinic referred to above shall be in a violation punishable by a \$5,000 fine for each day in operation.

(C) A pain clinic as used in this chapter shall be defined as follows: A business engaging in distribution of narcotic pain medication which:

(1) Is not affiliated with a local hospital doing business within 100-mile radius;

(2) A business that generates more than 50% of its revenue from the meeting with patients and prescribing narcotic pain medication for said patients; and

(3) A business that appears to have a disproportionate amount of patients receiving pain medication as opposed to receiving other medical services.

(D) In making the determination as to whether or not any such business is believed to be unlawfully operating a pain clinic as defined herein, the city may consider the criteria outlined in division (C) above and may also consider any and all other information which the city believes and deems relevant regarding the issue of whether any such business has or is in fact attempting to operate an improper pain clinic, including but not limited to the following:

(1) Whether the business at issue has a disproportionately high amount of payment for its services in cash;

(2) Whether the business in question provides prescription narcotic pain medication for disproportionately large number of residents not living in the immediate Breathitt County area;

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(3) The affiliation or lack of affiliation at issue with organizations or individuals providing other recognized methods of legitimate medical treatment for sick or injured individuals; and

(4) Such other information as may be deemed relevant by any court of competent jurisdiction.

(E) This chapter is to include Suboxone Clinics as well as pain clinics. It is the Council's belief that Suboxone Clinics are as detrimental to its citizens as pain clinics. The City of Jackson and its Council believe the risk to the community and its citizens is too great.

(Ord. 122012, passed 12-20-12)

TITLE XIII: GENERAL OFFENSES

Chapter

- 130. OFFENSES AGAINST MUNICIPAL REGULATIONS**
- 131. OFFENSES AGAINST PUBLIC PEACE**
- 132. WEAPONS**

CHAPTER 130: OFFENSES AGAINST MUNICIPAL REGULATIONS

Section

- 130.01 Prostitution prohibited
- 130.02 Burial of dead bodies on residential premises

§ 130.01 PROSTITUTION PROHIBITED.

It shall be unlawful for any person, firm, company or corporation to conduct, operate, or maintain, for hire or otherwise, a place of prostitution or to aid or abet or solicit persons for the purpose of prostitution, brothel or bawdy house, or to operate a building, place, structure, vehicle or conveyance for the purpose of prostitution.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ASSIGNATION. The making of any appointments or engagements for prostitution or lewdness or any acts in furtherance of such appointments or engagements.

LEWDNESS. An indecent or obscene act.

PROSTITUTION. Includes the giving or receiving of the body for sexual intercourse for hire, and the giving or receiving of the body for indiscriminate sexual intercourse without hire.

(B) It shall be unlawful to engage in prostitution or to aid or abet prostitution or to procure or to solicit any person for the purpose of prostitution, or to keep or set up a house of ill fame, brothel, or a bawdy house, or to receive any person for the purpose of lewdness, assignation, or prostitution into any vehicle, conveyance, place, or structure, or to direct, take or transport, or to offer or to agree to take or transport any person to any vehicle, conveyance, place, structure or building or for any other purpose with knowledge or reasonable cause to know the purpose of such direction, directing, taking or transporting is prostitution, lewdness, or assignation, or to lease or to rent any vehicle, conveyance, place or structure, or building, or part thereof, knowing or with good reason to know that it is intended to be used for any of the purposes prohibited by this section.

(Ord. 1946-4, passed - -46) Penalty, see 130.99

§ 130.02 BURIAL OF DEAD BODIES ON RESIDENTIAL PREMISES.

(A) No person shall be permitted to bury any dead bodies on residential premises within the city limits.

(B) All dead bodies shall be buried only in established cemeteries.

(C) Whoever violates any provision of this section shall be subject to a penalty as set forth in § 130.99 and shall be required to pay the cost of removing the remains to an established cemetery. (Ord. passed - -) Penalty, see 130.99

§ 130.99 PENALTY.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor and shall be subject to a fine of up to \$500, imprisonment of up to 30 days, or both such fine or imprisonment.

CHAPTER 131: OFFENSES AGAINST PUBLIC PEACE

Section

Curfew for Minors

- 131.01 Definitions
- 131.02 Curfew for minors
- 131.03 Exceptions
- 131.04 Duty of police officer

- 131.99 Penalty

CURFEW FOR MINORS

§ 131.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALLOW. Either permit or neglect to prevent. It requires actual or constructive knowledge on the part of the parent or guardian; that is, the parent or guardian must actually know about the child violating this subchapter, or the circumstances must be such that a reasonably prudent parent or guardian should have known the child was violating this subchapter.

MINOR. Any person under the age of 18, or, as may be otherwise phrased, any person of the age of 17 or under.

PARENT. Any person having legal custody of a minor:

- (1) As a natural or adoptive parent;
- (2) As a legal guardian;
- (3) As a person who stands “in loco parentis”; or
- (4) As a person whom legal custody has been given by Order of Court.

REMAIN. To stay behind, to tarry, or to stay unnecessarily upon or in any public assembly, building, place, street, or highway.
(Ord. 62095, passed 6-20-95)

§ 131.02 CURFEW FOR MINORS.

(A) (1) It shall be unlawful for any person under the age of 18 to be or remain in or upon any public assembly, building, place, street, or highway within the city at night during the following periods:

- (a) 1:00 a.m. to 6:00 a.m. Saturday;
- (b) 1:00 a.m. to 6:00 a.m. Sunday;
- (c) 11:00 p.m. Sunday to 6:00 a.m. Monday;
- (d) 11:00 p.m. Monday to 6:00 a.m. Tuesday;
- (e) 11:00 p.m. Tuesday to 6:00 a.m. Wednesday;
- (f) 11:00 p.m. Wednesday to 6:00 a.m. Thursday;
- (g) 11:00 p.m. Thursday to 6:00 a.m. Friday

(2) However, the Sunday through Thursday curfew shall be from 12:00 p.m. to 6:00 a.m. from June 1 through August 31.

(B) It shall be unlawful for any parent or guardian having legal custody of a minor to allow such minor to be or remain in or upon a public assembly, building, place, street, or highway in the city under circumstances not constituting an exception as enumerated in § 131.03 during the time periods contained in division (A) above.

(Ord. 62095, passed 6-20-95) Penalty, see § 131.99

§ 131.03 EXCEPTIONS.

In the following exceptional cases a minor in or upon any public assembly, building, place, street, or highway in the city during the nocturnal hours provided for in § 131.02 shall not be considered in violation of this subchapter:

- (A) When the minor is accompanied by a parent or guardian;
- (B) When accompanied by an adult authorized in writing by a parent or guardian of such minor;

(C) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly, provided that written notice signed by the minor and countersigned by a parent is in the possession of such minor specifying when, where, and in what manner the minor will be exercising such First Amendment rights;

(D) In case of reasonable necessity, but only after such minor's parent has communicated to the Police Department the facts establishing such reasonable necessity;

(E) When the minor is on the sidewalk of the place where such minor resides, or on the sidewalk or either next-door neighbor who has not communicated an objection to a police officer or the Police Department;

(F) When returning home, by a direct route from, and within one hour of the termination of a school activity, or any activity of a religious or other voluntary association, provided that justification indicating the place and time of termination of the event can be given to any investigating officer of the Police Department;

(G) When authorized by regulation issued by the Mayor in cases of reasonable necessity involving more minors than may reasonably be dealt with on an individual basis. Such regulation should be issued sufficiently in advance to permit publicity through news media and through other agencies such as the schools. The regulation shall define the activity, the scope of the use of the public assembly, building, place, street, or highway permitted, and the period of time involved, not to extend more than one hour beyond the time for termination of the activity, and the reason for finding that such regulation is reasonably necessary. The Mayor shall notify the Police Department of the information;

(H) When engaged in a business or occupation which the laws of Kentucky authorize a person under 18 years of age to perform, or returning home from the business or occupation.

(I) When the minor, who is a duly authorized and licensed driver, is operating a motor vehicle within the city for the purpose of passing through, by direct route, from one location to another either within or out of the city, including all minors that may also be within the vehicle.
(Ord. 62095, passed 6-20-95)

§ 131.04 DUTY OF POLICE OFFICER.

(A) A police officer upon finding or being notified of any minor in or upon any public assembly, building, place, street, or highway whose parent is believed to be in violation of this subchapter may stop and question such minor and request such information as his or her name and age, and the name and address of his or her parent, guardian, or person having legal custody.

(B) If the police officer determines or has reasonable cause to believe that a curfew violation has occurred, the police officer may obtain from the minor the information necessary to issue a citation to the minor's parent, guardian, or person having legal custody or either take the minor to his or her home or direct the minor to proceed immediately to his or her home.

(Ord. 62095, passed 6-20-95)

1995 S-1

§ 131.99 PENALTY.

Any parent, guardian, or person having legal custody allowing a minor to violate § 131.02 shall be subject to a fine of no more than \$500.00.

(Ord. 62095, passed 6-20-95)

CHAPTER 132: WEAPONS

Section

132.01 Concealed deadly weapons

§ 132.01 CONCEALED DEADLY WEAPONS.

(A) No person shall carry a concealed deadly weapon in any building or portion of any building owned, leased, occupied, or controlled by the city or on real property owned, leased, or controlled by the city government.

(B) The prohibition in division (A) of this section shall not apply to the following:

(1) Any urban city building used for public housing buildings or building used for public housing by private persons;

(2) Private dwellings owned, leased, or controlled by the city government; and

(3) Sworn officers in the division of police and other law enforcement officers authorized to carry concealed deadly weapons pursuant to KRS 527.020.

(C) The city fire chief shall post signs at the entrances to all restricted areas which shall indicate that any persons violating the provisions this section shall be denied entrance into the restricted area and ordered to leave the building or real property and that any city government employee violating the provisions House Bill No. 40 shall also be subject to disciplinary action, up to and including dismissal from employment.

(Ord. 51997, passed 5-19-97)

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS

151. FLOOD DAMAGE PREVENTION

152. ZONING CODE

**APPENDIX: SCHEDULE OF DIMENSION AND
AREA REGULATIONS**

CHAPTER 150: BUILDING REGULATIONS

Section

Standard Codes

- 150.01 Adoption of Kentucky Building Code and Standards of Safety; enforcement agents
- 150.02 Conformance with State Electrical Code
- 150.03 Application
- 150.04 Appeals

- 150.99 Penalty

§ 150.01 ADOPTION OF KENTUCKY BUILDING CODE AND STANDARDS OF SAFETY; ENFORCEMENT AGENTS.

(A) The Kentucky Building Code, as contained in Chapter 7, Title 815 of the Kentucky Administrative Regulations; the Kentucky Plumbing Code, as contained in Chapter 20, Title 815 of the Kentucky Administrative Regulations; the Kentucky Standards of Safety, as contained in Chapter 10, Title 815 of the Kentucky Administrative Regulations, together with any amendments, are hereby adopted by reference as if fully set forth in this code of ordinances.

(1) Copies of the Kentucky Building Code and the Kentucky Plumbing Code and any amendments thereto shall be placed on file in the office of the City Clerk where they shall be available for public inspection during normal business hours.

(2) Copies of the Kentucky Standards of Safety are available through the Department of Housing, Buildings and Construction, 1047 U.S. 127 South, Frankfort, Kentucky 40601. (Ord. 062791-B, passed 6-27-91)

(B) The Building Inspector shall be designated as the local enforcement agent for the Kentucky Building Code.

(C) The Fire Chief/Safety Officer and all other designated officers, agents, and employees of the city are hereby charged with the enforcement of the provisions of the Standards of Safety. Penalty, see § 150.99

§ 150.02 CONFORMANCE WITH STATE ELECTRICAL CODE.

(A) Any buildings constructed within the city limits shall conform to the requirements of the Kentucky Revised Statutes and the Electrical Code of Kentucky.

(B) Any repairs to any existing structures within the city limits shall conform to the requirements of the Kentucky Revised Statutes and the Electrical Code of Kentucky.
(Ord. 051187, passed 5-11-87)

§ 150.03 APPLICATION.

The application of the State Building Code shall be extended to all single-family dwellings in the city which are to be constructed or remodeled.

§ 150.04 APPEALS.

(A) Appeals from decisions made by the Building Inspector under this chapter may be taken to the State Board of Housing, Buildings and Construction unless and/or until a local board of housing appeals, as set forth in KRS Chapter 198B, is established to hear such appeals.

(B) All final decisions of the Fire Chief/Safety Officer shall be appealable to a local appeals board pursuant to the procedures adopted by the city. (Ord. 062791-B, passed 6-27-91)

Statutory reference:

Appeals procedure, see KRS 198B.070

SUBDIVISIONS AND TRAILER COURTS**§ 150.15 REQUIREMENTS CONCERNING ROADWAYS AND UTILITIES.**

(A) Any areas in the city or any areas sought to be annexed by the city as subdivisions or trailer courts, shall have all public roadways or routes of access plated and all proposed utilities either in place or in process of completion.

(B) All trailer courts must meet with city and state regulations and be approved by the City Building Inspector before the city will provide any services thereto. These regulations will be required for all utilities.

(Ord. 51782-2, passed 5-17-82) Penalty, see § 150.99

§ 150.99 PENALTY.

(A) Any person, firm or corporation who violates any provision of this chapter for which no specific penalty is otherwise provided shall be guilty of a misdemeanor and shall be subject to a fine of up to \$500, imprisonment for up to 30 days, or both such fine and imprisonment.

(B) Any person who violates any provision of the state codes adopted in § 150.01 shall be subject to the following penalties:

(1) Violators of the State Building Code shall, upon conviction, be subject to a fine of not less than \$10 nor more than \$1000 for each offense. (KRS 198B.990(1))

(2) Violators of the State Standards of Safety shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$1000, imprisonment for not more than 60 days, or both, for each offense. (KRS 227.990(1))

(3) Violators of the State Plumbing Code shall, upon conviction, be subject to a fine of not less than \$10 nor more than \$100, imprisonment for not more than 90 days, or both, for each offense. (KRS 318.990)

CHAPTER 151: FLOOD DAMAGE PREVENTION

Section

General Provisions

- 151.01 Statutory authorization
- 151.02 Findings of fact
- 151.03 Statement of purpose
- 151.04 Objectives
- 151.05 Definitions
- 151.06 Application; jurisdiction
- 151.07 Basis for establishing special flood hazard areas
- 151.08 Development permit required
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Administration

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Flood Hazard Reduction

- 151.40 General construction standards
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- 151.43 Standards for shallow flooding zones
- 151.44 Standards for subdivision proposals
- 151.45 Standards for accessory structures in all zones beginning with the letter "A"
- 151.46 Critical facilities

Variances

151.55 Appeals and variance procedures

151.99 Penalty

GENERAL PROVISIONS**§ 151.01 STATUTORY AUTHORIZATION.**

The Legislature of the Commonwealth of Kentucky has in KRS Chapter 100 delegated to local government units the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of Jackson, Kentucky, hereby adopts this chapter as the floodplain management ordinance of the City of Jackson.

(Ord. 111885, passed 11-18-85; Am. Ord. 022808, passed 2-28-08)

§ 151.02 FINDINGS OF FACT.

(A) The flood hazard areas of City of Jackson are subject to periodic inundation which result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increased flood height and velocity, and by the location in flood hazard areas of uses vulnerable to floods or hazardous to other lands which are inadequately elevated, floodproofed, or otherwise protected from flood damage.

(Ord. 111885, passed 11-18-85; Am. Ord. 022808, passed 2-28-08)

§ 151.03 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private loss due to flooding by provisions designed to:

(A) Restrict or prohibit uses which are dangerous to health, safety, and property due to water erosion hazards, or which result in damaging increases in erosion or in flood height or velocity;

(B) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate or channel flood waters;

(D) Control filling, grading, dredging, and other development which may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other areas.

(Ord. 111885, passed 11-18-85; Am. Ord. 022808, passed 2-28-08)

§ 151.04 OBJECTIVES.

The objectives of this chapter are to:

(A) Protect human life and health;

(B) Minimize expenditure of public money for costly flood control projects;

(C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Minimize prolonged business interruptions;

(E) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines; streets and bridges located in areas of special flood hazard;

(F) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard or other flood-prone areas in such a manner as to minimize future flood blighted areas caused by flooding;

(G) Ensure that potential homebuyers are on notice that property is in a special flood hazard area.

(H) Ensure that those who occupy a special flood hazard area assume responsibility for their actions.
(Ord. 111885, passed 11-18-85; Am. Ord. 022808, passed 2-28-08)

§ 151.05 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A ZONE. Portions of the special flood hazard area (SFHA) in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In **A ZONES**, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to structures. Areas of 100-year flood, base flood elevations and flood hazard factors are not determined.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure located on the same parcel of property as the principle structure, the use of which is incidental to the use of the principal structure. **ACCESSORY STRUCTURES** should constitute a minimal initial investment, may not be used for human habitation, and should be designed to have minimal flood damage potential. Examples of **ACCESSORY STRUCTURES** are detached garages, carports, storage sheds, pole barns, and hay sheds.

ACCESSORY USE. A use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

ADDITION (TO AN EXISTING STRUCTURE). Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

AI-30 AND AE ZONES. Special flood hazard areas inundated by the 1% annual chance flood (100-year flood). Base flood elevations (BFEs) are determined.

AH ZONE. An area of 100-year shallow flooding where depths are between one and three feet (usually shallow ponding). Base flood elevations are shown.

AO ZONE. An area of 100-year shallow flooding where water depth is between one and three feet (usually sheet flow on sloping terrain). Flood depths are shown.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or from the Floodplain Administrator's ruling on a request for a variance.

AR/AI - A30, AR/AE, AR/AH, AR/AO, AND AR/A ZONES. Special flood hazard areas (SFHAs) that result from the de-certification of a previously accredited flood protection system that is in the process of being restored to provide a 100-year or greater level of flood protection. After restoration is complete these areas will still experience residual flooding from other flooding sources.

A99 ZONE. That part of the SFHA inundated by the 100-year flood which is to be protected from the 100-year flood by a federal flood protection system under construction. No base flood elevations are determined.

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on a community's flood insurance rate map (FIRM) where the base flood depths range from one to three feet, there is no clearly defined channel, the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

B AND X ZONES (SHADED). Areas of the 0.2% annual chance (500-year) flood, areas subject to the 100-year flood with average depths of less than one foot or with contributing drainage area less than one square mile, and areas protected by levees from the base flood.

BASE FLOOD. A flood which has a one percent chance of being equaled or exceeded in any given year (also called the ***100-YEAR FLOOD***). Base flood is the term used throughout this chapter.

BASE FLOOD ELEVATION (BFE). The elevation shown on the flood insurance rate map (FIRM) for Zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, and AR/AO that indicates the water surface elevation resulting from a flood that has a 1% or greater chance of being equaled or exceeded in any given year.

BASEMENT. That portion of a structure having its floor subgrade (below ground level) on all four sides.

BUILDING. A walled and roofed structure that is principally aboveground; including a manufactured home, gas or liquid storage tank, or other man-made facility or infrastructure. See definition for structure.

C AND X (UNSHADED) ZONES. Areas determined to be outside the 500-year floodplain.

COMMUNITY. A political entity having the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

COMMUNITY RATING SYSTEM (CRS). A program developed by the Federal Insurance Administration to provide incentives to those communities in the regular program to go beyond the minimum floodplain management requirements to develop extra measures for protection from flooding.

COMMUNITY FLOOD HAZARD AREA (CFHA). An area that has been determined by the Floodplain Administrator (or other delegated, designated, or qualified community official) from available technical studies, historical information, and other available and reliable sources, which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety and general welfare. Included are areas downstream from dams.

CRITICAL FACILITY. Any property that, if flooded, would result in severe consequences to public health and safety or a facility which, if unusable or unreachable because of flooding, would seriously and adversely affect the health and safety of the public. Critical facilities include, but are not limited to: housing likely to contain occupants not sufficiently mobile to avoid injury or death unaided during a flood; schools, nursing homes, hospitals, police, fire and emergency response installations, vehicle and equipment storage facilities, emergency operations centers likely to be called upon before, during and after a flood, public and private utility facilities important to maintaining or restoring normal services before, during and after a flood, and those facilities or installations which produce, use or store volatile, flammable, explosive, toxic and/or water-reactive materials, hazardous materials or hazardous waste.

D ZONE. An area in which the flood hazard is undetermined.

DEVELOPMENT. Any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.

ELEVATED STRUCTURE. A non-basement structure built to have the lowest floor elevated above ground level by means of fill, solid foundation perimeter walls, piling, columns (post and piers), shear walls, or breakaway walls. (See freeboard requirements for residential and non-residential structures.)

ELEVATION CERTIFICATE. A statement certified by a registered professional engineer or surveyor on the FEMA-approved form in effect at the time of certification that verifies a structure's elevation and other related information to verify compliance with this chapter.

EMERGENCY PROGRAM. The initial phase under which a community participates in the NFIP, intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

ENCLOSURE. That portion of a structure below the base flood elevation (BFE) used solely for parking of vehicles, limited storage, or access to the structure.

ENCROACHMENT. The physical advance or infringement of uses, plant growth, fill, excavation, structures, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

EXISTING CONSTRUCTION. Any structure for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. **EXISTING CONSTRUCTION** may also be referred to as **EXISTING STRUCTURES**.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management ordinance adopted by City of Jackson based on specific technical base flood elevation data which established the area of special flood hazards.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FIVE-HUNDRED YEAR FLOOD. The flood that has a 0.2% chance of being equaled or exceeded in any year. Areas subject to the 500-year flood have a moderate to low risk of flooding.

FLOOD, FLOODING, OR FLOOD WATER.

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e. mudflows). See ***MUDSLIDES***.

(2) The condition resulting from flood-related erosion. See ***FLOOD-RELATED EROSION***.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). A map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and the regulatory floodway.

FLOOD HAZARD BOUNDARY MAP (FHBM). A map on which the boundaries of the flood, mudslide (i.e., mudflow), and flood-related erosion areas having special hazards have been designated as Zones A, M, and/or E by the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA).

FLOOD INSURANCE RATE MAP (FIRM). A map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated special flood hazard areas and risk premium zones.

FLOOD INSURANCE STUDY. The report provided by the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) containing flood profiles, the flood insurance rate map (FIRM), and/or the flood boundary floodway map (FBFM), and the water surface elevation of the base flood.

FLOODPLAIN OR FLOODPRONE AREA. Any land area susceptible to being inundated by flood waters from any source.

FLOODPLAIN ADMINISTRATOR. The individual appointed by a NFIP participating community to administer and enforce this chapter.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management ordinances, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS. This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control), and other applications of police power, which control development in floodprone areas. This term describes federal, state and/or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODPROOFING. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

FLOODPROOFING CERTIFICATE. A certification by a registered professional engineer or architect, on a FEMA-approved form in effect at the time of certification stating that a non-residential structure, together with attendant utilities and sanitary facilities is watertight to a specified design elevation with walls that are substantially impermeable to the passage of water and all structural components are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy and anticipated debris impact forces.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as the **REGULATORY FLOODWAY**.

FLOODWAY FRINGE. That area of the floodplain on either side of the regulatory floodway where encroachment may be permitted without additional hydraulic and/or hydrologic analysis.

FRAUD AND VICTIMIZATION. As related in § 151.55, **FRAUD AND VICTIMIZATION** means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City Council will consider the fact that every newly constructed structure adds to government responsibilities and remains a part of the community for 50 to 100 years. Structures that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages may incur. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

FREEBOARD. A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood. **FREEBOARD** must be applied not just to the elevation of the lowest floor or floodproofing level, but also to the level of protection provided to all components of the structure, such as building utilities, HVAC components, and the like.

FUNCTIONALLY DEPENDENT USE FACILITY. A facility, structure, or other development, which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

GOVERNING BODY. The local governing unit, i.e. county or municipality that is empowered to adopt and implement ordinances to provide for the public health, safety and general welfare of its citizenry.

HAZARD POTENTIAL. The possible adverse incremental consequences that result from the release of water or stored contents due to failure of a dam or misoperation of a dam or appurtenances. The hazard potential classification of a dam does not reflect in any way the current condition of a dam and its appurtenant structures (e.g., safety, structural integrity, flood routing capacity).

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

INCREASED COST OF COMPLIANCE (ICC).

(1) **INCREASED COST OF COMPLIANCE** coverage provides for the payment of a claim for the cost to comply with state or community floodplain management laws or ordinances after a direct physical loss by flood. When a building covered by a standard flood insurance policy under the NFIP sustains a loss and the state or community declares the building to be substantially or repetitively damaged, **ICC** will help pay up to \$30,000 for the cost to elevate, floodproof, demolish, or remove the building.

(2) **ICC** coverage is available on residential and non-residential buildings (this category includes public or government buildings, such as schools, libraries, and municipal buildings) insured under the NFIP.

KRS 151.250 - PLANS FOR DAMS, LEVEES, ETC TO BE APPROVED AND PERMIT ISSUED BY CABINET - (ENVIRONMENTAL AND PUBLIC PROTECTION CABINET).

(1) Notwithstanding any other provision of law, no person and no city, county or other political subdivision of the state, including levee districts, drainage districts, flood control districts or systems, or similar bodies, shall commence the construction, reconstruction, relocation or improvement of any dam, embankment, levee, dike, bridge, fill or other obstruction (except those constructed by the Department of Highways) across or along any stream, or in the floodway of any stream, unless the plans and specifications for such work have been submitted by the person or political subdivision responsible for the construction, reconstruction or improvement and such plans and specifications have been approved in writing by the cabinet and a permit issued. However, the cabinet by regulation may exempt those dams, embankments or other obstructions, which are not of such size or type as to require approval by the cabinet in the interest of safety or retention of water supply.

(2) No person, city, county, or other political subdivision of the state shall commence the filing of any area with earth, debris, or any other material, or raise the level of any area in any manner, or place a building, barrier or obstruction of any sort on any area located adjacent to a river or stream or in the floodway of the stream so that such filling, raising, or obstruction will in any way affect the flow of water in the channel or in the floodway of the stream unless plans and specifications for such work have been submitted to and approved by the cabinet and a permit issued as required in division (1) above.

(3) Nothing in this definition is intended to give the cabinet any jurisdiction or control over the construction, reconstruction, improvement, enlargement, maintenance or operation of any drainage district, ditch or system established for agricultural purposes, or to require approval of the same except where such obstruction of the stream or floodway is determined by the cabinet to be a detriment or hindrance to the beneficial use of water resources in the area, and the person or political subdivision in control thereof so notified. The Department for Natural Resources through KRS Chapter 350 shall have exclusive jurisdiction over KRS Chapter 151 concerning the regulation of dams, levees, embankments, dikes, bridges, fills, or other obstructions across or along any stream or in the floodway of any stream which structures are permitted under KRS Chapter 350 for surface coal mining operations.

LETTER OF MAP CHANGE (LOMC). An official FEMA determination, by letter, to amend or revise effective flood insurance rate maps, flood boundary and floodway maps, and flood insurance studies. **LOMCs** include the following categories:

(1) **LETTER OF MAP AMENDMENT (LOMA).** A revision based on technical data showing that a property was incorrectly included in a designated SFHA. A **LOMA** amends the current effective FIRM and establishes that a specific property is not located in a SFHA.

(2) **LETTER OF MAP REVISION (LOMR).** A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features.

(3) **LETTER OF MAP REVISION - FILL (LOMR F).** A determination that a structure or parcel has been elevated by properly placed engineered fill above the BFE and is, therefore, excluded from the SHFA.

LEVEE. A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM.

(1) A flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(2) For a **LEVEE SYSTEM** to be recognized, the following criteria must be met:

(a) All closure devices or mechanical systems for internal drainage, whether manual or automatic, must be operated in accordance with an officially adopted operation manual (a copy of which must be provided to FEMA by the operator when levee or drainage system recognition is being sought or revised).

(b) All operations must be under the jurisdiction of a federal or state agency, an agency created by federal or state law, or an agency of a community participating in the NFIP.

LIMITED STORAGE. An area used for storage and intended to be limited to incidental items which can withstand exposure to the elements and have low flood damage potential. Such an area must be of flood resistant material, void of utilities except for essential lighting, and cannot be temperature controlled.

LOWEST ADJACENT GRADE. The elevation of the sidewalk, patio, deck support, or basement entry way immediately next to the structure and after the completion of construction. It does not include earth that is emplaced for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a structure's foundation system.

LOWEST FLOOR. The lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, structure access, or storage in an area other than a basement area is not considered a structure's **LOWEST FLOOR**, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected or attached to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property. **MANUFACTURED HOME** does not include a "recreational vehicle" (see **RECREATIONAL VEHICLE**).

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MAP. The flood hazard boundary map (FHBM) or the flood insurance rate map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

MAP PANEL NUMBER. The four-digit number on a flood map, followed by a letter suffix, assigned by FEMA. The first four digits represent the map panel. The letter suffix represents the number of times the map panel has been revised. (The letter “A” is not used by FEMA, the letter “B” is the first revision.)

MARKET VALUE. The structure value, excluding the land (as agreed between a willing buyer and seller), as established by what the local real estate market will bear. **MARKET VALUE** can be established by independent certified appraisal, replacement cost depreciated by age of structure (actual cash value) or adjusted assessed values.

MEAN SEA LEVEL (MSL). The average height of the sea for all stages of the tide. For the purposes of the National Flood Insurance Program, the **MSL** is used as a reference for establishing various elevations within the floodplain as shown on a community’s FIRM. For purposes of this chapter, the term is synonymous with either National Geodetic Vertical Datum (NGVD) 1929 or North American Vertical Datum (NAVD) 1988.

MITIGATION. Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the costs of disaster response and recovery.

MUDSLIDE (I.E. MUDFLOW). Describes a condition where there is a river, flow, or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain. A mudslide (i.e. mudflow) may occur as a distinct phenomenon while a landslide is in progress, and will be recognized as such by the Floodplain Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

MUDSLIDE (I.E. MUDFLOW) AREA MANAGEMENT. The operation of and overall program of corrective and preventative measures for reducing mudslide (i.e. mudflow) damage, including but not limited to emergency preparedness plans, mudslide control works, and floodplain management regulations.

MUDSLIDE (I.E. MUDFLOW) PRONE AREA. An area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP). The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

NATIONAL GEODETIC VERTICAL DATUM (NGVD). As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used as the vertical datum on the older FIRMs. Refer to FIRM legend panel for correct datum.)

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of City of Jackson's floodplain management regulations and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of City of Jackson's adopted floodplain management ordinances.

NON-RESIDENTIAL. Structures that are not designed for human habitation, including but is not limited to small business concerns, churches, schools, farm structures (including grain bins and silos), pool houses, clubhouses, recreational structures, mercantile structures, agricultural and industrial structures, warehouses, and hotels or motels with normal room rentals for less than six months' duration.

NORTH AMERICAN VERTICAL DATUM (NAVD). As corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain. (Generally used on the newer FIRMs and digitally referenced FIRMs (DFIRMs). (Refer to FIRM or DFIRM legend panel for correct datum.)

OBSTRUCTION. Includes but is not limited to any dam, wall, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, structure, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

ONE-HUNDRED YEAR FLOOD (100-YEAR FLOOD). See ***BASE FLOOD.*** The flood that has a 1% or greater chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the ***100-YEAR FLOOD.*** Over the life of a 30-year loan, there is a 26% chance of experiencing such a flood with the SFHA.

PARTICIPATING COMMUNITY. A community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

PRE-FIRM CONSTRUCTION. Construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

POST-FIRM CONSTRUCTION. Construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

PROBATION. A means of formally notifying participating NFIP communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations. During periods of probation, each insurance policy is subject to a \$50 surcharge.

PROGRAM DEFICIENCY. A defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management standards or of the standards of 44 CFR 60.3, 60.4, 60.5, and/or 60.6.

PUBLIC SAFETY AND NUISANCE. Anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

RECREATIONAL VEHICLE. A vehicle that is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable to a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULAR PROGRAM. The phase of a community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

REGULATORY FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. See **BASE FLOOD**.

REMEDY A VIOLATION. The process by which a community brings a structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impact of non-compliance. Reduced impact may include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing state or federal financing exposure with regard to the structure or other development.

REPAIR. The reconstruction or renewal of any part of an existing structure.

REPETITIVE LOSS. Flood-related damages sustained by a structure on two or more separate occasions during a ten-year period where the value of damages equals or exceeds an average of 50% of the current value of the structure, beginning on the date when the damage first occurred, or, four or more flood losses of \$1,000 or more over the life of the structure, or, three or more flood losses over the life of the structure that are equal to or greater than the current value of the structure.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, and the like.

SECTION 1316. That section of the National Flood Insurance Act of 1968, as amended, which states that no new or renewal flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that are intended to discourage or otherwise restrict land development or occupancy in floodprone areas.

SHEET FLOW AREA. See **AREA OF SHALLOW FLOODING.**

SPECIAL FLOOD HAZARD AREA (SFHA). That portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zone A, AE, A1-A30, AH, AO, or AR.

START OF CONSTRUCTION. (Includes substantial improvement and other proposed new development.) The date a building permit is issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement is within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual **START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the structure.

STRUCTURE. A walled and roofed building that is principally above ground; including manufactured homes, gas or liquid storage tanks, or other man-made facilities or infrastructures. See **BUILDING.**

SUBDIVISION. Any division, for the purposes of sale, lease, or development, either on the installment plan or upon any and all other plans, terms and conditions, of any tract or parcel of land into two or more lots or parcels.

SUBROGATION. An action brought by FEMA to recover insurance money paid out where all or part of the damage can be attributed to acts or omissions by a community or other third party.

SUBSTANTIAL DAMAGE.

(1) Means any damage to a building for which the cost of repairs equals or exceeds 50% of the market value of the building prior to the damage occurring. This term includes structures that are categorized as repetitive loss.

(2) For the purposes of this definition, “repair” is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences.

(3) The term does not apply to:

(a) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions; or

(b) Any alteration of a “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

SUBSTANTIAL IMPROVEMENT.

(1) Means any combination of reconstruction, alteration, or improvement to a building, taking place during a one-year period in which the cumulative percentage of improvement equals or exceeds 50% of the current market value of the building. For the purposes of this definition, an improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building.

(2) The term does not apply to:

(a) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the Code Enforcement Official and which are solely necessary to assure safe living conditions;

(b) Any alteration of an “historic structure” provided that the alteration will not preclude the structure’s continued designation as a “historic structure;” or

(c) Any building that has been damaged from any source or is categorized as repetitive loss.

SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARKS OR SUBDIVISIONS. Repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads equaling or exceeding 50% of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement commenced.

SUSPENSION. Removal of a participating community from the NFIP for failure to enact and/or enforce floodplain management regulations required for participation in the NFIP. New or renewal flood insurance policies are no longer available in suspended communities.

UTILITIES. Includes electrical, heating, ventilation, plumbing, and air conditioning equipment.

VARIANCE. Relief from some or all of the requirements of this chapter.

VIOLATION. Failure of a structure or other development to fully comply with this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

WATERCOURSE. A lake, river, creek, stream, wash, channel or other topographic feature on or over which water flows at least periodically.

WATERSHED. All the area within a geographic boundary from which water, sediments, dissolved materials, and other transportable materials drain or are carried by water to a common outlet, such as a point on a larger stream, lake, or underlying aquifer.

X ZONE. The area where the flood hazard is less than that in the SFHA. Shaded **X ZONES** shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2% probability of being equaled or exceeded (the 500-year flood) in any year. Unshaded **X ZONES** (C zones on older FIRMS) designate areas where the annual exceedance probability of flooding is less than 0.2%.

ZONE. A geographical area shown on a flood hazard boundary map or a flood insurance rate map that reflects the severity or type of flooding in the area.

(Ord. 111885, passed 11-18-85; Am. Ord. 92393, passed 9-23-93; Am. Ord. 022808, passed 2-28-08)

§ 151.06 APPLICATION; JURISDICTION.

This chapter shall apply to all special flood hazard areas (SFHA), areas applicable to KRS 151.250 and, as determined by the Floodplain Administrator or other delegated, designated, or qualified community official as determined by the City Council of City of Jackson from available technical studies, historical information, and other available and reliable sources, areas within the jurisdiction of the City Council of City of Jackson which may be subject to periodic inundation by floodwaters that can adversely affect the public health, safety, and general welfare of the citizens of City of Jackson.

(Ord. 111885, passed 11-18-85; Am. Ord. 022808, passed 2-28-08)

§ 151.07 BASIS FOR ESTABLISHING SPECIAL FLOOD HAZARD AREAS.

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the flood insurance study (FIS) for Breathitt County, dated April 2, 2008, with the accompanying flood insurance rate maps (FIRMs), other supporting data and any subsequent amendments thereto, are hereby adopted by reference and declared to be a part of these regulations by City of Jackson, and for those land areas acquired by City of Jackson through annexation. This FIS and attendant mapping is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the City Council by the Floodplain Administrator and are enacted by City Council pursuant to statutes governing land use management regulations. The FIS and/or FIRM are permanent records of City of Jackson and are on file and available for review by the public during regular business hours at Jackson City Hall at 333 Broadway, Jackson, Ky. 41339.

(Ord. 111885, passed 11-18-85; Am. Ord. 022808, passed 2-28-08)

§ 151.08 DEVELOPMENT PERMIT REQUIRED.

(A) A development permit shall be required in conformance with the provision of this chapter prior to the commencement of any development activities in the special flood hazard areas (SFHA). See § 151.26 for instructions and explanation.

(B) Application for a development permit shall be made on forms furnished by the Floodplain Administrator.

(Ord. 111885, passed 11-18-85; Am. Ord. 92393, passed 9-23-93; Am. Ord. 022808, passed 2-28-08)
Penalty, see § 151.99

§ 151.09 COMPLIANCE.

No structure or land shall hereafter be constructed, located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable state regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the City Council from taking such lawful action as is necessary to prevent or remedy any violation.

(Ord. 111885, passed 11-18-85; Am. Ord. 022808, passed 2-28-08) Penalty, see § 151.99

§ 151.10 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 111885, passed 11-18-85; Am. Ord. 022808, passed 2-28-08)

§ 151.11 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

(A) Considered minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. 111885, passed 11-18-85; Am. Ord. 022808, passed 2-28-08)

§ 151.12 WARNING; DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This chapter shall not create liability on the part of the City Council of City of Jackson, any officer or employee, the Commonwealth of Kentucky, the Federal Insurance Administration, or the Federal Emergency Management Agency, thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. 111885, passed 11-18-85; Am. Ord. 022808, passed 2-28-08)

ADMINISTRATION

§ 151.25 DESIGNATION OF LOCAL ADMINISTRATOR.

The City Council of Jackson hereby appoints the Mayor or designee to administer, implement, and enforce the provisions of this chapter by granting or denying development permits in accordance with its provisions, and is herein referred to as the Floodplain Administrator.

(Ord. 111885, passed 11-18-85; Am. Ord. 92393, passed 9-23-93, Am. Ord. 022808, passed 2-28-08)

§ 151.26 ESTABLISHMENT OF DEVELOPMENT PERMIT.

A development permit shall be obtained before any construction or other development begins within any special flood hazard area established in § 151.07. Application for a development permit shall be made on forms furnished by Floodplain Administrator prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage

of materials, drainage facilities; and the location of the foregoing. Endorsement of local administrator is required before a state floodplain construction permit can be processed. Specifically, the following information is required:

(A) *Application stage.*

(1) Proposed elevation in relation to mean sea level (MSL) of the proposed lowest floor (including basement) of all structures in Zone A and elevation of highest adjacent grade; or

(2) Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed;

(3) All appropriate certifications from a registered professional engineer or architect that the non-residential floodproofed structure will meet the floodproofing criteria in §§ 151.41(B) and 151.43(B);

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(B) *Construction stage.*

(1) Upon placement of the lowest floor, and before construction continues, or floodproofing by whatever construction means, it shall be the duty of the permit holder to submit to the Floodplain Administrator and to the State a certification of the elevation of the lowest floor or floodproofed elevation, as built, in relation to mean sea level. In AE, A1-30, AH, and A zones where the community has adopted a regulatory base flood elevation, said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.

(2) When floodproofing is utilized for a particular structure, said certification shall be prepared by or under the direct supervision of a certified professional engineer or architect. Any continued work undertaken prior to the submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the lowest floor and flood proofing elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop work order for the project.

(Ord. 111885, passed 11-18-85; Am. Ord. 92393, passed 9-23-93; Am. Ord. 022808, passed 2-28-08)
Penalty, see § 151.99

§ 151.27 DUTIES AND RESPONSIBILITIES OF LOCAL ADMINISTRATOR.

(A) The Floodplain Administrator and/or staff is hereby appointed, authorized and directed to administer, implement and enforce the provisions of this chapter. The Floodplain Administrator is

further authorized to render interpretations of this chapter which are consistent with its spirit and purpose by granting or denying development permits in accordance with its provisions.

(B) The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

(1) *Permit review.* Review all development permits to ensure that:

(a) Permit requirements of this chapter have been satisfied;

(b) All other required state and federal permits have been obtained: Advise permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit;

(c) Flood damages will be reduced in the best possible manner;

(d) The proposed development does not adversely affect the carrying capacity of affected watercourses. For purposes of this chapter, **ADVERSELY AFFECTS** means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

(2) *Review and use of any other base flood data.* When base flood elevation data has not been provided in accordance with § 151.07, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer §§ 151.40 through 151.46. Any such information shall be submitted to the City Council for adoption.

(3) *Notification of other agencies.*

(a) Notify adjacent communities, the Kentucky Division of Water, and any other federal and/or state agencies with statutory or regulatory authority prior to any alteration or relocation of the watercourse;

(b) Submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency (FEMA); and

(c) Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.

(4) *Documentation of floodplain development.* Obtain and maintain for public inspection and make available as needed the following:

(a) Certification required by § 151.41(A) (lowest floor elevations) as shown on a completed and certified elevation certificate. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 151.26(B);

(b) Certification required by § 151.41(B) (elevation or floodproofing of nonresidential structures) as shown on a completed and certified floodproofing certificate. Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been flood-proofed, in accordance with § 151.26(B);

(c) Certification required by § 151.41(C) (elevated structures);

(d) Certification of elevation required by § 151.44(A) (subdivision standards);

(e) Certification required by § 151.41(E) (floodway encroachments);

(f) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;

(g) Review certified plans and specifications for compliance;

(h) *Remedial action.* Take action to remedy violations of this chapter as specified in § 151.99.

(5) *Map determinations.* Make interpretations where needed, as to the exact location of the boundaries of the special flood hazard areas, for example, where there appears to be a conflict between a mapped boundary and actual field conditions.

(a) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 151.55(C)(2);

(b) When base flood elevation data or floodway data have not been provided in accordance with § 151.07, then the Floodplain Administrator shall obtain, review, and reasonable utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer the provisions of §§ 151.40 through 151.46;

(c) When floodproofing is utilized for a particular structure, the Floodplain Administrator shall obtain certification from a registered professional engineer or architect, in accordance with § 151.41(B), a floodproofing certificate;

(d) All records pertaining to the provisions of this chapter shall be maintained in the office of the Floodplain Administrator and shall be open for public inspection.

(6) *Right of entry.*

(a) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the Administrator has reasonable cause to believe that there exists in any structure or upon any premises any condition or ordinance violation which makes such building, structure or premises unsafe, dangerous or hazardous, the administrator may enter such building, structure or premises at all reasonable times to inspect the same or perform any duty imposed upon the Administrator by this chapter.

(b) If such structure or premises are occupied, he or she shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of such request entry.

(c) If entry is refused, the Administrator shall have recourse to every remedy provided by law to secure entry.

(d) When the Administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Administrator for the purpose of inspection and examination pursuant to this chapter.

(7) *Stop work orders.* Upon notice from the Administrator, work on any building, structure or premises that is being done contrary to the provisions of this chapter shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(8) *Revocation of permits.*

(a) The Administrator may revoke a permit or approval, issued under the provisions of this chapter, in case there has been any false statement, or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(b) The Administrator may revoke a permit upon determination by the Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.

(9) *Liability.* Any officer, employee, or member of the Floodplain Administrator's staff, charged with the enforcement of this chapter, acting for the applicable governing authority in the discharge of his or her duties, shall not thereby render himself or herself personally liable, and is hereby relieved from all personal liability, for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his or her duties. Any suit brought against any officer, employee, or member because of such act performed by him or her in the enforcement of any provision of this chapter shall be defended by the department of law until the final termination of the proceedings.

(10) *Expiration of floodplain construction permit.* A floodplain construction permit, and all provisions contained therein, shall expire if the holder of a floodplain construction permit has not commenced construction within 180 calendar days from the date of its issuance by the Floodplain Administrator.

(Ord. 111885, passed 11-18-85; Am. Ord. 92393, passed 9-23-93; Am. Ord. 022808, passed 2-28-08) Penalty, see § 151.99

FLOOD HAZARD REDUCTION

§ 151.40 GENERAL CONSTRUCTION STANDARDS.

In all special flood hazard areas the following provisions are required:

(A) All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or fume ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(C) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(D) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;

(E) Electrical, heating, ventilation, plumbing, air condition equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and

(F) Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

(G) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(H) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

(I) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(J) Any alteration, repair, reconstruction, or improvements to a structure, which is not in compliance with the provisions of this chapter shall meet the requirements of “new construction” as contained in this chapter; and

(K) Any alteration, repair, reconstruction, or improvements to a structure, which is not in compliance with the provisions of this chapter shall be undertaken only if said non-conformity is not furthered, extended, or replaced.

(Ord. 111885, passed 11-18-85; Am. Ord. 92393, passed 9-23-93; Am. Ord. 022808, passed 2-28-08)
Penalty, see § 151.99

§ 151.41 SPECIFIC STANDARDS.

In all special flood hazard areas where base flood elevation data have been provided, as set forth in § 151.07, the following provisions are required:

(A) *Residential construction.*

(1) New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, mechanical equipment, and ductwork elevated no lower than zero feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of division (C) below.

(a) In an AO Zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified.

(b) In an A Zone, where no technical data has been produced by the Federal Emergency Management Agency, elevated zero feet above the base flood elevation, as determined by this community. The Floodplain Administrator will determine the method by which base flood elevations are

determined. Methods include but are not limited to detailed hydrologic and hydraulic analyses, use of existing data available from other sources, use of historical data, best supportable and reasonable judgement in the event no data can be produced. Title 401 KAR (Kentucky Administrative Regulations) Chapter 4, Regulation 060, states as a part of the technical requirements for a state floodplain permit: "The applicant shall provide cross sections for determining floodway boundaries (and thereby Base Flood Elevations) at any proposed construction site where FEMA maps are not available. All cross sections shall be referenced to mean sea level and shall have vertical error tolerances of no more than + five-tenths (0.5) foot. Cross sections elevations shall be taken at those points which represent significant breaks in slope and at points where hydraulic characteristics of the base floodplain change. Each cross section shall extend across the entire base floodplain and shall be in the number and at the locations specified by the cabinet. If necessary to ensure that significant flood damage will not occur, the cabinet may require additional cross sections or specific site elevations which extend beyond those needed for making routine regulatory floodway boundary calculations."

(c) In all other zones, elevated zero feet above the base flood elevation.

(2) Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community building inspection department to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

(B) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or non-residential structure (including manufactured homes used for non-residential purposes) shall be elevated to conform with division (A) above or together with attendant utility and sanitary facilities:

(1) Be floodproofed below an elevation zero feet above the level of the base flood elevation so that the structure is watertight with walls substantially impermeable to the passage of water;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(3) Have the lowest floor, including basement, mechanical equipment, and ductwork, elevated no lower than zero feet above the level of the base flood elevation, or;

(4) A registered professional engineer or architect shall certify that the standards of this division (A) are satisfied. Such certification shall be provided to the official as set forth in § 151.26(A)(3).

(5) Manufactured homes shall meet the standards in division (D) below.

(6) All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or

storage, and which are subject to flooding, shall be constructed of flood resistant materials below an elevation zero feet above the base flood elevation, and shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Opening sizes (FEMA Technical Bulletin 1-93) for meeting this requirement must meet or exceed the following minimum criteria:

(a) Be certified by a registered professional engineer or architect: or

(b) Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

(C) *Elevated structures.* New construction or substantial improvements of elevated structures on columns, posts, or pilings, for example, that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(1) Opening sizes for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(a) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(2) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and

(3) The interior portion of such enclosed areas shall not be partitioned or finished into separate rooms.

(D) *Standards for manufactured homes and recreational vehicles.*

(1) (a) All new or substantially improved manufactured homes placed on sites located within A, A1-30, AO, AH, and AE on the community's flood insurance rate map (FIRM) must meet all the requirements for new construction, including elevation and anchoring. Locations include:

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1. On individual lots or parcels;
2. In expansions to existing manufactured home parks or subdivisions;
3. In new manufactured home parks or subdivisions;
4. In substantially improved manufactured home parks or subdivisions;
5. Outside of a manufactured home park or subdivision; or
6. In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred “substantial damage” as the result of a flood.

(b) All manufactured homes must be:

1. Elevated on a permanent foundation;
2. Have its lowest floor elevated no lower than zero feet above the level of the base flood elevation; and
3. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(2) Except manufactured homes that have incurred substantial damage as a result of a flood, all manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that the manufactured home is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement, so that either:

(a) The lowest floor of the manufactured home is elevated no lower than zero feet above the level of the base flood elevation; or

(b) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above the highest adjacent grade.

(3) (a) All recreational vehicles placed on sites located within A, A1-30, AO, AH, and AE on the community’s flood insurance rate map (FIRM) must either:

1. Be on the site for fewer than 180 consecutive days;
2. Be fully licensed and ready for highway use; or

3. Meet the permit requirements for new construction of this chapter, including anchoring and elevation requirements for “manufactured homes.”

(b) A recreational vehicle is ready for highway use if it is licensed and insured in accordance with the State of Kentucky motor vehicle regulations, is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(E) *Floodways*. Located within areas of special flood hazard established in § 151.07 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and has erosion potential, the following provisions shall apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other developments unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in the base flood elevation levels during occurrence of base flood discharge;

(2) If this division (E) is satisfied, all new construction and substantial improvements and other proposed new development shall comply with all applicable flood hazard reduction provisions of §§ 151.40 through 151.46.

(Ord. 111885, passed 11-18-85; Am. Ord. 92393, passed 9-23-93; Am. Ord. 022808, passed 2-28-08) Penalty, see § 151.99

§ 151.42 STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATION (UNNUMBERED A ZONES) AND/OR FLOODWAYS.

Located within the special flood hazard areas established in § 151.07, where streams exist but where no base flood data has been provided or where base flood data has been provided without floodways, the following provisions apply:

(A) No encroachments, including fill material or structures shall be located within special flood hazard areas, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(B) New construction or substantial improvements of structures shall be elevated or floodproofed to elevations established in accordance with § 151.07.

(Ord. 92393, passed 9-23-93; Am. Ord. 022808, passed 2-28-08) Penalty, see § 151.99

§ 151.43 STANDARDS FOR SHALLOW FLOODING ZONES.

Located within the special flood hazard areas established in § 151.07, are areas designated as shallow flooding areas. These areas have flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist and the water path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(A) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the flood insurance rate map above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.

(B) All new construction and substantial improvements of non-residential structures shall:

(1) Have the lowest floor, including basement, elevated to or above either the base flood elevation or in Zone AO the flood depth specified on the flood insurance rate map, above the highest adjacent grade. In Zone AO, if no flood depth is specified, the lowest floor, including basement, shall be elevated no less than two feet above the highest adjacent grade.

(2) Together with attendant utility and sanitary facilities be completely floodproofed either to the base flood elevation or above or, in Zone AO, to or above the specified flood depth plus a minimum of one foot so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as stated in § 151.41(B). (Ord. 92393, passed 9-23-93; Am. Ord. 022808, passed 2-28-08) Penalty, see § 151.99

§ 151.44 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood and be consistent with the need to minimize flood damage;

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and

(D) In areas where base flood elevation and floodway data is not available (Zone A or unmapped streams), base flood elevation and floodway data for subdivision proposals and other proposed development (including manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall be provided.

(E) All subdivision plans will include the elevation of proposed structure(s) and lowest adjacent grade. If the site is filled above the base flood elevation, the lowest floor and lowest adjacent grade elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.

(Ord. 111885, passed 11-18-85; Am. Ord. 92393, passed 9-23-93; Am. Ord. 022808, passed 2-28-08) Penalty, see § 151.99

§ 151.45 STANDARDS FOR ACCESSORY STRUCTURES IN ALL ZONES BEGINNING WITH THE LETTER “A.”

For all accessory structures in special flood hazard areas designated “A” the following provisions shall apply:

(A) Structure must be non-habitable;

(B) Must be anchored to resist floatation forces;

(C) Will require flood openings/vents no more than one foot above grade, total openings are to be one square inch per one square foot of floor area, at least two openings required on opposite walls;

(D) Built of flood resistant materials below a level zero feet above the base flood elevation;

(E) Must elevate utilities above the base flood elevation;

(F) Can only be used for storage or parking;

(G) Cannot be modified for a different use after permitting.

(Ord. 022808, passed 2-28-08) Penalty, see § 151.99

§ 151.46 CRITICAL FACILITIES.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA (100-year floodplain). Construction of new critical facilities shall not be permissible within the floodway; however, they may be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated one foot or more above the level of the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

(Ord. 022808, passed 2-28-08) Penalty, see § 151.99

VARIANCES**§ 151.55 APPEALS AND VARIANCE PROCEDURES.***(A) Nature of variances.*

(1) The variance criteria set forth in this section are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

(2) It is the duty of the City Council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level is so serious that variances from the flood elevation or from other requirements in this chapter are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

(B) Designation of Variance and Appeal Board. The City Council of Jackson shall establish an Appeal Board consisting of the Board of Adjustment and Municipal Planning and Zoning Commission.

(C) Duties of Variance and Appeals Board.

(1) The Appeal Board shall hear and decide requests for variances from the requirements of this chapter and appeals of decisions or determinations made by the Floodplain Administrator in the enforcement or administration of this chapter.

(2) Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the local District Court, as provided in Kentucky Revised Statutes.

(D) Appeals/variance procedures. In passing upon such applications, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and the:

- (1) Danger that materials may be swept onto other lands to the injury of others;
- (2) Danger to life and property due to flooding or erosion damage;

- (3) Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
- (4) Importance to the community of the services provided by the proposed facility;
- (5) Necessity that the facility be located on a waterfront, in the case of functionally dependent facility;
- (6) Availability of alternative locations which are not subject to flooding or erosion damage;
- (7) Compatibility of the proposed use with existing and anticipated development;
- (8) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) Safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) Expected height, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- (11) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.

(E) *Conditions for variances.* Upon consideration of the factors listed above and the purposes of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(1) Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances shall only be issued upon a determination that the variance is the minimum necessary to afford relief considering the flood hazard. **MINIMUM NECESSARY** means to afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of variances to an elevation requirement, this means the City Council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City Council believes will both provide relief and preserve the integrity of this chapter.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary to afford relief considering the flood hazard. In the instance of an historical structure, a determination shall be made that the variance is the minimum necessary to afford relief and not destroy the historic character and design of the structure.

(4) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant (as defined in § 151.04); and

(c) A determination that the granting of a variance will not result in increased flood height, additional threats to public safety, cause extraordinary public expense, create nuisance (as defined in § 151.04), cause fraud or victimization of the public (as defined in § 151.04) or conflict with existing local laws or ordinances.

(5) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(6) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency (FEMA) and the Federal Insurance Administration (FIA) upon request.

(7) Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of division (D) above are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

(F) *Variance notification.* Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(2) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the City of Jackson Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

(3) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

(G) *Historic structures.* Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon determination that the proposed repair or rehabilitation will not preclude the

structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(H) *No impact certification within the floodway.* Variances shall not be issued within any mapped or designated floodway if any increase in flood levels during the base flood discharge would result. (Ord. 92393, passed 9-23-93; Am. Ord. 022808, passed 2-28-08) Penalty, see § 151.99

§ 151.99 PENALTY.

(A) *Civil offense.* If, at any time, development occurs which is not in accordance with the provisions of this chapter including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved modifications, such development shall constitute a civil offense.

(B) *Notice of violation.* If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this chapter including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved modifications thereof a duly authorized employee of the Floodplain Administrator shall issue a notice to the person responsible for the violation and/or the property owner, stating the facts of the offense or violation, the section of this chapter and/or of the permit violated, when it occurred, how the violation is to be remedied to bring the development into conformity with this chapter or with the approved permit, and within what period of time the remedy is to occur, which period of time shall be reasonable and shall be determined by the nature of the violation and whether or not it creates a nuisance or hazard. The remedy may include an order to stop work on the development. The notice shall also state that a citation may be forthcoming in the event that the requested remedies and corrective actions are not taken, which citation will request a civil monetary fine and shall state the maximum fine which could be imposed. See below.

(C) *Notice of citation.* If, at any time, a duly authorized employee or agent of the Floodplain Administrator has reasonable cause to believe that a person has caused development to occur which is not in accordance with the provisions of this chapter including obtaining or complying with the terms and conditions of a floodplain construction permit and any approved modifications thereof a duly authorized employee of the Floodplain Administrator may issue a citation to the offender stating the violation, prior notices of violation issued, how the violation is to be remedied to bring the development into conformity with this chapter or with the approved permit, and within what period of time the remedy is to occur, and what penalty or penalties are recommended. When a citation is issued, the person to whom the citation is issued shall respond to the citation within seven days of the date the citation is issued by either carrying out the remedies and corrections set forth in the citation, paying the civil fine set forth in the citation or requesting a hearing before the governing body. If the person to whom the citation is issued does not respond to the citation within seven days, that person shall be deemed to have waived the right to a hearing and the determination that a violation occurred shall be considered final.

(D) *Penalties.* Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with granting of a variance or special exceptions, shall constitute a misdemeanor civil offense. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no less than \$750 or imprisoned for not more than 180 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 111885, passed 11-18-85; Am. Ord. 92393, passed 9-23-93; Am. Ord. 022808, passed 2-28-08)

CHAPTER 152: ZONING CODE

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GENERAL PROVISIONS

§ 152.001 ENACTING CLAUSE.

The City Council, as authorized by KRS 100.201 through 100.271, ordains the following Zoning Code.
(Ord. 6884, passed 6-8-84)

§ 152.002 TITLE.

This chapter is entitled, “Zoning Ordinance for the City of Jackson, Kentucky,” and may be referred to as the Zoning Code. The Zoning Map referred to herein is entitled the “Zoning Map for Jackson, Kentucky,” and may be referred to as the Zoning Map. The Jackson Zoning Map is hereby made a part of this chapter. There is on file with the City Clerk one copy of the map and text, comprising together the official zoning ordinance for the city. A certified copy of the map and text are on file with the Jackson Zoning Board.
(Ord. 6884, passed 6-8-84)

§ 152.003 PURPOSE.

The purpose of this chapter is to promote the general welfare by establishing the regulating zoning districts throughout the city for the specific purposes detailed in KRS 100.201. In establishing the zoning districts, this chapter seeks the general welfare; in other words, by designating sufficient space for all necessary uses of land, by protecting the permitted uses in each district from the undesirable effects of conflicting uses, and by ensuring the stable value of all permitted development. This chapter further seeks the general welfare by protecting the efficiency and encouraging the improvement of traffic circulation and access to the land in all districts in order that daily travel and commerce may

increase in safety and may be carried forth with a minimum of delay for benefit of all activities and persons in the city.

(Ord. 6884, passed 6-8-84)

§ 152.004 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACCESSORY STRUCTURE or **USE**. Any structure or use, other than the principal structure or use, directly incidental to or required for the enjoyment of the permitted use of any premises; also, as specifically designated under the zoning district regulations of this Zoning Code.

ADMINISTRATIVE OFFICIAL. The official or officials designated by the governing body of the city for administering the Zoning Code.

ADVERTISING SIGN or **STRUCTURE**. Any cloth, card, paper, metal, painted, glass, wooden, plastic, plaster or stone sign, or other sign, device or structure of any character whatsoever, including statuary, placed for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, or structure. The term **PLACED** shall include erecting, construction, posting, painting, printing, tacking, nailing, gluing, sticking, carving or otherwise fastening, affixing or making visible in any manner whatsoever. The area of an advertising structure other than a sign shall be determined as the area of the largest cross-section of such structure. Neither directional, warning, nor other signs posted by public officials in the course of their public duties nor merchandise or materials being offered for sale shall be construed as advertising signs for the purpose of this definition.

ALLEY. A public passage or way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

ALTERATION. Any change or addition to the load-bearing members or the foundation of a structure.

BUILDING. Any structure which fully encloses space for occupancy by persons or their activities.

BUILDING PERMIT. A permit issued by the administrative official authorizing the construction or alteration of a specific building on a specific lot.

CONDITIONAL USE. A use which is essential to or would promote the public health, safety, or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulations.

CONDITIONAL USE PERMIT. Legal authorization to undertake a conditional use, issued by

the administrative official pursuant to authorization by the Board of Zoning Adjustment, consisting of two parts:

(1) A statement of the factual determination by the Board of Zoning Adjustment which justifies the issuance of a permit.

(2) A statement of the specific conditions which must be met in order for the use to be permitted.

COVERAGE. The percentage of the lot area covered by the building. The building area shall include all overhanging roofs.

DWELLING. A dwelling is a building providing shelter, sanitation, and the amenities for permanent habitation. It does not include temporary lodging or sleeping rooms.

HEIGHT OF STRUCTURE. The vertical distance measured from the average finished grade at the front building line to the highest point of the structure.

HOME OCCUPATIONS. Professional offices, studios, personal services, and the renting of sleeping rooms maintained or conducted within a dwelling. Such activities are incidental to the principal residential use and involve the employment of no more than one person who does not reside on the premises. Such activities occupy no more than 25% of the total floor area of a dwelling. Any activity in which the selling of any merchandise is the primary function is not a home occupation.

JUNKYARD. Any place where five or more junked, wrecked or non-operating automobiles, vehicles, machines, and/or other similar scrap or salvage materials are deposited, parked, placed, or otherwise located.

LOT. A parcel of land under one ownership devoted to a common use or occupied by a single principal building plus accessory structures. Agricultural tracts are not included.

LOT, CORNER. A lot which abuts on two intersecting streets at their intersection.

LOT, DOUBLE-FRONTAGE. Any lot other than a corner lot which abuts on two streets.

LOTLINE. The boundary dividing a lot from a right-of-way, adjoining lot, or other adjoining tract of land. (Front, rear, and side lot lines are self-explanatory.)

LOT OF RECORD. A lot which is recorded in the office of the County Clerk.

MOBILE HOME. Any vehicle or similar portable structure used or so constructed as to permit its being used as a conveyance upon streets and as a dwelling for one or more persons. If all wheels, rollers, or skids have been removed from the vehicle and a foundation has been established, it may be permitted by conditional use to exist as a permanent residential structure provided it is in conformance with all other provisions of this chapter.

MOBILE HOME PARK. A tract of land prepared and approved according to the procedures in this chapter to accommodate two or more mobile homes.

NON-CONFORMING STRUCTURE or USE. A structure or use of any premises which do not conform with all provisions of this Zoning Code but which existed before being designated as non-conforming by the adoption or amendment of this chapter.

PRINCIPAL BUILDING. A building, including covered porches, carports, and attached garages in which is conducted the principal use of the lot on which it is situated. In any residence district any dwelling shall be deemed to be the principal building on the lot on which the same is situated.

STRUCTURE. Any combination of materials fabricated to fulfill a function in a fixed location on the land; includes buildings.

VARIANCE. A departure from strict conformance with the dimension and area regulations, which may be approved by the Board of Adjustment.

YARD. The open space surrounding the principal building on any lot, unoccupied and unobstructed by any portion of that building from the ground to the sky except where, specifically permitted by this Zoning Code. Yards are further defined as follows:

(1) **FRONT YARD.** That portion of the yard extending the full width of the lot and measured between the front lot line and a parallel line tangent to the nearest part of the principal building, which line shall be designated as the front yard line.

(2) **REAR YARD.** That portion of the yard extending the full width of the lot and measured between the rear lot line and a parallel line tangent to the nearest part of the principal building.

(3) **SIDE YARDS.** Those portions of the yard extending from the front yard to the rear yard and measured between the side lot lines and parallel lines tangent to the nearest parts of the principal building.

ZONE. Any area or section of the city for which regulations governing the use of buildings and premises or the height and area of buildings are uniform. The terms **ZONE** and **DISTRICT** are used interchangeably.

(Ord. 6884, passed 6-8-84)

§ 152.005 APPLICATION OF REGULATIONS.

All existing and future structures and uses of premises within the city shall conform with all applicable provisions of this chapter. Each zoning district is established to permit only those uses specifically listed as permitted, except as hereinafter provided under the non-conforming provisions, and is intended for the protection of those uses. No other uses permitted.

(Ord. 6884, passed 6-8-84)

§ 152.006 GREATER RESTRICTIONS TO APPLY.

In case of conflict between the Zoning Code or any part thereof and the whole or part of any existing or future ordinance of the city or the whole or part of any existing or future private covenants or deeds, the most restrictive in each case shall apply.

(Ord. 6884, passed 6-8-84)

GENERAL DEVELOPMENT REGULATIONS**§ 152.020 COORDINATION WITH SUBDIVISION REGULATIONS.**

(A) In all cases where the ownership of land is divided for the purpose of eventual development of lots of any kind — residential, commercial, or industrial — the subdivision regulations, heretofore adopted for the city, and amendments thereto, shall apply in addition to the provisions of the Zoning Code.

(B) It is desirable that access points to the arterial streets serving all zoning districts shall be located no more frequently than once every $\frac{1}{4}$ mile. Topography and traffic volumes shall determine the exact locations. Heavy arterial traffic volumes demand greater access spacing. Along any arterial street where subdivided land and its minor streets are not sufficiently developed to permit acceptably spaced access points, the Jackson Zoning Board may approve the platting of temporary access points and may require that temporary access points shall be eliminated by the developer when minor streets or marginal access streets are extended to the approved permanent access points. Such requirements shall be listed as special conditions on the recorded final plat. Access points shall also meet federal and state standards where applicable.

(Ord. 6884, passed 6-8-84)

§ 152.021 CONDITIONAL USE REGULATIONS.

Conditional uses may be permitted in districts as designated under the zoning district regulations but only when specifically approved by the Board of Zoning Adjustment in accordance with KRS 100.237. Subdivisions, when permitted, shall be subject to the respective regulations governing their approval. All other conditional uses shall be subject to the following regulations:

- (A) All districts. The following conditional uses only may be approved in all zoning districts:
- (1) Non-local public utility and private transmission lines and pipes.
 - (2) Radio, TV, and telephone transmission structures.
 - (3) Large utility structures and public service buildings.

- (4) Expansion of railroads and appurtenances.
- (5) Government buildings and uses.
- (6) Churches and libraries.

(B) Specified districts. Other conditional uses may be approved only in those zoning districts where they are designated as conditional uses under the zoning district regulations.

(C) Procedure. An applicant shall submit an application for a conditional use permit to the administrative official, and the applicant shall follow all procedures set forth in § 152.203(A) of this chapter and KRS 100.237. The administrative official shall refer the application to the Board of Zoning Adjustment. The Board of Zoning Adjustment is authorized by KRS 100.237 to grant, modify, or deny a conditional use permit. Payment of a fee shall be required of the applicant before the issuance of the conditional use permit. Other regulations for conditional use permits are as follows:

(1) The Board of Zoning Adjustments may attach necessary conditions such as time limitations, requirements that one or more things be done before the request can be initiated, or conditions of a continuing nature. Any such conditions shall be recorded in the Board's minutes and on the conditional use, along with reference to the specific section in the zoning regulation listing the conditional use under consideration. The Board of Zoning Adjustment shall have the power to revoke conditional use permits, or variances for non-compliance with the conditions thereof. Furthermore, the Board shall have the right of action to compel offending structures or uses removed at the cost of the violator and may have judgment in person for such cost.

(2) Granting of a conditional use permit does not exempt the applicant from complying with all of the requirements of this chapter and other ordinances and regulations of the city.

(3) A conditional use permit shall be exercised within one year from the date of issuance within the meaning of KRS 100.237.

(4) The administrative official shall review all conditional use permits, except for those for which all conditions have been permanently satisfied, at least once annually, and shall have the power to inspect the land or structure where the conditional use is located in order to ascertain that the landowner is complying with all of the conditions which are listed on the conditional use permit. If the landowner is not complying with all of the conditions which are listed on the conditional use permit, the administrative official shall report the fact in writing to the Chairperson of the Board of Zoning Adjustment. The report shall state specifically the manner in which the landowner is not complying with the conditions on the permit and a copy of the report shall be furnished to the landowner at the same time that it is furnished to the Chairperson of the Board of Zoning Adjustment. Upon hearing the report, as required by KRS 100.237, if the Board finds the facts alleged to be true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the Board may authorize the administrative official to revoke the conditional use permit and to take the necessary legal action to cause the termination of the activity on the land which the conditional use permit authorizes.

(5) Once the Board of Zoning Adjustment has completed a conditional use permit and all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon the request of the applicant may, if the facts warrant, make a determination that the conditions have been satisfied and the conclusion in the margin of the copy of the conditional use permit which is on file with the Breathitt County Court Clerk, as required by KRS 100.344. Therefore, said use, if it continues to meet the other requirements of the regulations, will be treated as a permitted use.

(6) As required by KRS 100.344, a copy of a conditional use permit must be filed with the County Court Clerk at the applicant's expense.
(Ord. 6884, passed 6-8-84)

GENERAL REGULATIONS FOR STRUCTURES AND USES

§ 152.035 NON-CONFORMING STRUCTURES.

Non-conforming structures may be continued subject to the following regulations:

(A) Alterations. A non-conforming structure shall not be enlarged, replaced, or structurally altered except in conformance with this chapter. Any structure, however, may be restored to a safe condition if declared unsafe by the administrative official or other official with jurisdiction.

(B) Restoration. A non-conforming structure damaged more than 50% of its replacement value shall not be restored except in conformance with this chapter. Value of the site, of undamaged buildings on the site, and of other improvements on or about the site separate from the damaged structure shall not be used in determining percent of damage to the particular structure or structures. Restoration must be begun within 90 days of the date of damage and in accordance with all pertinent regulations.

(C) Construction approved prior to adoption or amendment of this chapter, proposed buildings for which building permits have been issued prior to their designation as non-conforming by the adoption or amendment of this Zoning Code may be completed and used as originally intended provided they are completed and in use one year after the date on which the permit was issued.
(Ord. 6884, passed 6-8-84)

§ 152.036 NON-CONFORMING USES.

Non-conforming uses may be continued subject to the following regulations:

(A) Extensions. A non-conforming use shall not be extended or moved to occupy any portion of land or a structure which would otherwise conform with this chapter.

(B) Discontinuance. Whenever a non-conforming use of any premises has been discontinued for a period of at least six months, no non-conforming use may be re-established on those premises.

(C) Changes. A non-conforming use may be changed only to a conforming use unless the Board of Zoning Adjustment shall find that the proposed non-conforming use is less detrimental to the district than the existing non-conforming use of the property. The Zoning Board shall specify such appropriate conditions and safeguards as may be required in connection with such change.

(Ord. 6884, passed 6-8-84)

§ 152.037 APPROVED WATER SUPPLY AND SEWAGE DISPOSAL FOR BUILDINGS.

It shall be unlawful to construct any building without water supply and sewage disposal facilities which have been approved by the County Health Officer. Wherever water and sewer mains are accessible, buildings shall be connected to such mains. In every other case, individual water supply and sewage disposal must meet the requirements set by the County Health Officer. The County Health Officer's certificate approving proposed and completed water and sewerage facilities must accompany applications for building permits and certificates of occupancy.

(Ord. 6884, passed 6-8-84)

§ 152.038 REGULATION OF PRINCIPAL BUILDINGS.

Unless a plan has been approved for a planned-development project, only one principal building and its permitted accessory structures may be erected on any lot of record. Temporary structures are permitted during construction only.

(Ord. 6884, passed 6-8-84)

SPECIAL REGULATIONS

§ 152.050 MOBILE HOMES; MOBILE HOME PARKS.

(A) Definition. For the purpose of this chapter, ***MOBILES HOME*** means any portable or mobile vehicle used or designed to be used for living purposes, whether or not its wheels, rollers, or skids are in place. However, if all wheels, rollers, or skids have been removed from any vehicle and a foundation has been established, it may be permitted by conditional use to exist as a permanent residential structure provided it is in conformance with all other provisions of this chapter.

(B) Mobile homes permitted. All future mobile homes shall be permitted only in mobile home parks, which shall be permitted by conditional use only in R-2 Residential Zones.

(C) Area and density requirements. No mobile home park shall be permitted on an area of less than 2½ acres in size, although the developer shall be permitted to develop the park in stages as long

as he complies with an overall plan approved by the Zoning Board for the entire tract. The number of mobile homes permitted in the mobile homes park shall not exceed a density of 18 mobile homes per net acre — a net acre being the land to be subdivided into lots after streets and other required improvements have been installed.

(D) Lot requirements. Individual lots within a mobile home park shall not be less than 2,400 square feet in area, and in no instance shall more than one mobile home be permitted on a single lot. The minimum lot width shall be 40 feet.

(E) Setback. No mobile home or accessory building or structure shall be located closer to any street than the minimum front yard setback for permanent residential structures along the street. Where the mobile home park is not bounded by a dedicated street, the minimum setback shall be 30 feet.

(F) Spacing. No mobile home shall be located within 30 feet from another mobile home, except that a minimum end-to-end clearance of not less than ten feet shall be permitted, and in instances where the sides opposite the entrance of two mobile homes face each other, the amount of space between the two mobile homes may be reduced to not less than 20 feet.

(G) Utilities. All lots within the mobile home park shall be provided with sewer, water, and electrical facilities meeting the standards specified by city and state regulations, and each mobile home shall be properly connected with the utilities.

(H) Accessory structures. No accessory structures or buildings, including patios, shall be located within five feet from any individual lot line.

(I) Procedure.

(1) In that mobile home parks are permitted as a conditional use only, the prospective developer, before attempting to obtain a building permit or beginning any construction, shall prepare a plan showing the lot dimensions and bearings of the parcel he intends to develop, location with respect to the city, general layout or design he intends to follow and improvements he expects to install on the land. He shall then meet with the Zoning Board, the purpose being to inform the developer of any plans the city may have that would affect his plan to ensure that the developer's plans are not in conflict with the city's Future Land Use Plan. This meeting would also form a common ground whereby the Zoning Board and the prospective developer could reach an understanding of the types of improvements necessary.

(2) Before approving the development plan, the Zoning Board may make other conditional requirements pertaining to such things as landscaping, screening, and road requirements. These conditional requirements shall be considered as a part of the city Zoning Code, and failure to comply therewith shall be subject to the penalties contained therein.

(3) After approval by the Zoning Board, the prospective developer shall meet with the Board of Zoning Adjustment and request and receive the necessary exception to the Zoning Code before a building permit can be issued.

(J) Non-conforming mobile homes and mobile home parks.

(1) All mobile homes in existence within the corporate limits of the city on the date of passage of this chapter and which cannot be brought into compliance with the provisions of this chapter shall be grandfathered, however, if at any time this mobile home is burned, destroyed or for any reason moved, all rules and provisions of this chapter shall then be enforced on the lot.

(2) It is further provided that existing mobile home parks legally operating at the time of passage of this chapter may continue to operate, but shall be required to maintain a lot size of 2,400 square feet per mobile home and comply with other provisions of this chapter. Existing occupants will be allowed to remain, but as the occupants move out, no new residents will be permitted until the park meets the 2,400 square feet per trailer lot size. However, any new additions to the park, should additions be added to, will have to comply with all frontage and provisions of this chapter.

(K) Conflict of ordinances. All parts of any existing ordinance in conflict herewith are hereby repealed.

(L) Exception. This chapter shall not be construed so as to prohibit the location or storage of a single mobile home on a lot in addition to a principal building, provided the mobile home is owned by or has permission from the occupant of the principal building or dwelling unit on the lot and provided the mobile home is parked on the rear of the lot and the setback and yard requirements for an accessory building in the zone are observed, and that the service utility is not used for sleeping purposes for more than two weeks per year.

(Ord. 6884, passed 6-8-84)

§ 152.051 JUNKYARDS.

Junkyards are not designated as permitted uses in any district and are consequently non-conforming uses in all districts. They shall conform with § 152.036 of this chapter prescribing regulations for non-conforming uses. The administrative official shall ensure that all existing junkyards maintain valid permits to operate issued by the Kentucky Department of Highways, as required by KRS 177.905 through 177.990, and he shall ensure that all screening required by the Department of Highways is maintained as long as the junkyards remain in operation.

(Ord. 6884, passed 6-8-84)

GENERAL REGULATIONS FOR LOTS AND YARDS**§ 152.065 OBSTRUCTIONS TO VISION AT STREET INTERSECTIONS.**

The following shall apply in all but the Central Commercial District. Within the area defined by the intersection of any two right-of-way lines of streets, or of streets and railroads, and a straight line intersecting those two right-of-way lines at points 30 feet from their intersection, no obstructions to

vision between a height of 3½ feet and ten feet above the imaginary plane defined by those three points of intersection are permitted. This regulation shall not be deemed to prohibit any necessary retaining wall.

(Ord. 6884, passed 6-8-84)

§ 152.066 FRONT YARD REGULATIONS FOR DOUBLE-FRONTAGE LOTS.

Double-frontage lots shall, on both of the streets involved, meet the front yard regulations of the district in which they are located.

(Ord. 6884, passed 6-8-84)

§ 152.067 APPLICATION OF YARDS TO ONE BUILDING ONLY.

No part of a yard required for any building may be included as fulfilling the yard requirements for an adjacent building.

(Ord. 6884, passed 6-8-84)

§ 152.068 USE OF YARDS FOR ACCESSORY BUILDINGS.

No accessory buildings are permitted in front yards. They are permitted in rear or side yards according to the dimension and area regulations.

(Ord. 6884, passed 6-8-84)

GENERAL REGULATIONS FOR VEHICLES

§ 152.080 OFF-STREET PARKING SPACE REGULATIONS FOR AUTOMOBILES.

(A) Existing parking space. Existing off-street parking provided for any building or use at the time of adoption of this chapter shall not thereafter be reduced if such reduction results in parking area less than that required by this chapter. Any existing building or use not provided with conforming parking space shall be provided with off-street parking space in conformance with this chapter at the time of expansion of the use.

(B) Required off-street parking space. When any building is built or any use of the land is initiated, there shall be provided sufficient off-street parking space on the premises so that no automobile parking on any street will result from the normal activity. If the off-street parking capacity is exceeded and street parking is generated more often than six times during a six months period, this shall be considered as resulting from normal activity and additional off-street parking shall be provided. The Board of Zoning Adjustment shall interpret the amount of parking space required for any building or use, assisted by the following standards, literally, or determine a parking space

deficiency according to the standards above. In either case, he shall apply to the Board for an original interpretation.

(C) Parking space. For the purposes of this chapter, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another. For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at 400 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the city.

(D) Off-street parking standards. The following standards comprise the minimum off-street parking requirements for the several common types of buildings and uses listed:

(1) Dwelling. One parking space per dwelling unit.

(2) Indoor retail businesses. One parking space each 100 square feet of commercial floor area plus one space for every truck operated by the business.

(3) Industrial plants. One parking space for every two employees at maximum employment on a single shift plus one space for every truck operated by the plant.

(4) Places for public assembly, institutions, and recreation facilities. One parking space for every five persons based on maximum capacity.

(5) Additional parking standards. The Board of Zoning Adjustment may raise the standards listed above when necessary to conform with division (B) of this section, and shall use similar criteria of floor area, employment, or capacity to interpret standards for buildings and uses not specifically listed above.

(6) Parking. For computing the number of parking spaces in a given area, the ratio of 250 square feet per parking space shall be used.
(Ord. 6884, passed 6-8-84)

§ 152.081 OFF-STREET LOADING AND UNLOADING SPACE REGULATIONS FOR TRUCKS.

All buildings and uses which generate regular trucking traffic shall be provided with sufficient off-street loading and unloading space on the premises so that they will generate no loading or unloading activity on their required parking spaces or on any street. The Board of Adjustment shall interpret the amount of loading and unloading space required for any building or use whenever the

administrative official is unable to apply this standard literally and applies to the Board for an original interpretation.

(Ord. 6884, passed 6-8-84)

§ 152.082 ADDITIONAL PARKING, LOADING, AND UNLOADING REGULATIONS.

(A) Arrangement of off-street parking spaces. Off-street parking space required for any building or use may be detached from, but located within, walking distance of 400 feet from the premises it serves, and may be consolidated into a large parking area serving other buildings and uses if approved by the Board of Zoning Adjustment. The administrative official shall apply to the Board for an original interpretation when building permits are requested in such cases. The Board may not authorize the total amount of parking space required for all buildings and uses to be diminished, except as follows: if a consolidated parking area serves buildings or uses which do generate the parking at the same time.

(B) Proof of availability. The Board of Adjustment may require a plat, deed, and any other proof necessary to show that required parking space, if located off the premises it serves, is controlled by and available to the applicant for a building permit.

(C) Surfacing of parking, loading, and unloading spaces. Parking, loading and unloading spaces, and the access thereto shall be surfaced in a manner adequate to eliminate dust and mud.

(Ord. 6884, passed 6-8-84)

GENERAL REGULATIONS FOR SIGNS AND OUTDOOR ADVERTISING

§ 152.095 PURPOSE.

There has been increasing concern over the indiscriminate location of signs, billboards, and other outdoor advertising devices. The following regulations are established to preserve the natural features along the highways leading through the city and to protect residential property values by prohibiting billboards and other outdoor advertising devices in the city's residential area.

(Ord. 6884, passed 6-8-84)

§ 152.096 RULES AND REGULATIONS.

(A) Outdoor advertising shall be classified as a business use and shall be permitted only in the following zoning districts:

- (1) All industrial districts;
- (2) The Central Commercial District; and

(3) The General Highway Commercial District.

(B) No outdoor advertising sign or display shall be erected, placed, painted, repainted, or hung nearer to the street right-of-way line upon which said display faces than the building lines provided in districts where the use is permitted, except one sign advertising the primary nature of the business or industry conducted on the premises may be placed not closer than five feet to the street right-of-way line, but shall in no case be permitted to obstruct the view of traffic nor exceed an area of 12 square feet. However, in the Central Commercial District where buildings may be built up to the street right-of-way line, overhanging and projecting signs shall be permitted provided they comply with other provisions of this chapter and with the regulations contained in the city's Building Code as now or hereafter amended.

(1) Signs suspended from any building in the Central Commercial District shall not project more than 60 inches over any sidewalk or right-of-way line, and the bottom of such sign shall not be less than 12 feet above the finished grade of the sidewalk.

(2) All outdoor advertising displays and signs advertising specific events to be held over a period of time shall be removed within seven days after the last day of the event.

(3) Any sign containing less than two square feet; any sign posting property; any sign advertising the specific property on which it is placed for sale or rent which contains less than ten square feet may be erected without a building permit or certificate of occupancy. All other signs shall require a building permit or certificate of occupancy.

(4) In any residential district, small professional or announcement signs of professions or businesses permitted in these zones shall be permitted but shall not exceed four square feet in area.

(5) (a) In any zoning district, signs advertising the property on which they are located for sale, rent, lease, or trade may be erected as set forth in area and distance as follows:

<i>Area in Signs (Feet)</i>	<i>Distance From Right-of-Way Line (Feet)</i>
12 or less	12
13-20	50
21-40	100
41-60	150

(b) It is further provided that no sign in any of the aforementioned districts shall exceed 60 square feet in area.

(6) Directional signs, not exceeding two feet, may be erected provided they are not within the right-of-way of any street.

(7) Signs advertising lodging and tourist homes within residential districts shall be limited in size to six square feet and the top of such signs shall not be higher than six feet measured from ground level. Not more than one sign on the premises shall be used to advertise any tourist home. Such tourist homes and places of lodging signs shall be located not closer than two feet from any street right-of-way line and so placed that they will not obstruct the view of traffic in any way. Any illumination of such signs shall be shaded so that they in no way interfere with the vision of motorists or adjoining property owners.

(8) Loud speakers, juke boxes, public address systems, and electric amplifiers shall be permitted if the use of the same is for the occupants of the building only within which such equipment is installed and does not create a nuisance and disturb the peace of the other persons or properties in its own or any other district.

(9) Any individual person or firm erecting, placing, or hanging any signs in the city shall apply for a building permit showing that such sign is in conformance with the city's Zoning Code, except in pursuance of division (B)(3) of this section.

(10) Signs or other outdoor advertising which involve traffic lighting or motion resembling traffic or directional signals, warnings such as "stop" or "danger" or any other similar signals which are normally associated with highway safety or regulations are prohibited. Additionally, no sign, outdoor commercial advertising device constituting a nuisance because of light, glare, focus, animation, or flashing, or any illuminated signs of such "intensity of illumination" as to unduly disturb the use of residential property shall be erected or continue in operation.

(11) Outdoor advertising structure shall be adequately maintained. Such maintenance shall include proper alignment of structure, continued readability of structure, and preservation of structure with paint or other surface finishing material. If an outdoor advertising structure is not maintained, written notice of any disrepair shall be issued by the administrative official to the owner of the structure. If the disrepair is not corrected within 30 days of issuance of the notice, the structure shall be removed at the owner's expense.

(Ord. 6884, passed 6-8-84)

§ 152.097 NON-CONFORMING SIGNS AND BILLBOARDS.

Non-conforming signs and billboards shall be allowed to continue in existence provided they are properly maintained and kept in a good state of repair; however, no new signs or billboards shall be permitted under any circumstances except in conformance with the regulations contained herein for those zoning districts where such signs or billboards are a permitted use.

(Ord. 6884, passed 6-8-84)

EXCEPTIONS**§ 152.110 USE EXCEPTIONS.**

Several types of structures and uses which may or may not be listed as permitted uses in any district are nevertheless, not prohibited from any district. These structures and, uses, with required permits, are:

(A) No building permit or certificate of occupancy required:

(1) Local public utility distributing and collecting structures such as pipes and transmission lines, transformers, meters, and the like. Large utility structures such as substations are permitted only as conditional uses.

(2) Public streets and all appurtenances necessary for traffic direction and safety.

(3) Private drives, private parking areas, and the parking of vehicles incidental to the principal use on the same premises.

(4) Real estate signs located on the premises being advertised for sale or for rent, not to exceed a total of ten square feet in sign area.

(5) Signs not over four square feet in area identifying permitted home occupations on the same premises.

(6) Horticulture and landscaping of any premises.

(7) Agriculture, but not including agricultural structures.

(B) Building permit required; no certificate of occupancy required: Advertising sign or structure. All such signs shall meet the standards set forth within the individual districts as established in §§ 152.095 through 152.097 of this chapter, except as provided for by divisions (A)(4) and (5) of this section.

(Ord. 6884, passed 6-8-84)

§ 152.111 HEIGHT EXCEPTIONS.

Height regulations apply to buildings and portions of buildings occupied regularly by human beings. Unless otherwise provided, they do not apply to structures or portions of buildings such as radio towers, silos, and flag poles, which are not regularly occupied by human beings except for maintenance. The Board of Adjustment shall interpret whether the height regulation's apply whenever there is doubt.

(Ord. 6884, passed 6-8-84)

§ 152.112 LOT OF RECORD.

When the owner of a lot of official record, which lot at the same time of the adoption of this chapter does not include sufficient land to conform to the yard or other requirements of this chapter, an application may be submitted to the Board of Zoning Adjustment for a variance from the terms of this chapter in accordance with the provisions of §§ 152.155 through 152.158 of this chapter. Such lots may be used as a building site, provided, however, that the yard and other requirements of the district are complied with as closely as is possible in the opinion of the Board of Zoning Adjustment.

ZONING DISTRICTS

§ 152.125 ESTABLISHMENT AND DESIGNATION.

The city is divided into five zoning districts as shown on the Zoning Map for the city and these districts are designated as follows:

(A) Residential Districts.

- (1) R-1 - Single-Family.
- (2) R-2 - Multiple-Family.

(B) Commercial Districts.

- (1) C-1 - General Highway Commercial.
- (2) C-2 - Central Commercial.

(C) Industrial District. I-1 - General Industrial.

(Ord. 6884, passed 6-8-84)

§ 152.126 ZONING MAP; RECORDING OF DISTRICTS.

The boundaries of each zoning district are set forth on the Zoning Map filed with the City Clerk. The map and all explanatory material thereon is hereby made part of this chapter.

(Ord. 6884, passed 6-8-84)

§ 152.127 INTERPRETATION OF ZONING DISTRICT BOUNDARIES.

(A) The boundaries of the districts are hereby established as shown on the Zoning Map which is on file in the office of the City Clerk.

(B) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(1) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;

(2) Boundaries indicated as approximately following the city limits shall be construed as following city limits that exist at the time of enactment of this chapter;

(3) Boundaries indicated as approximately following platted lot lines shall be construed as following platted lot lines;

(4) Boundaries indicated as approximately following the center lines of streams, rivers, ditches, gullies, or other bodies of water shall be construed to follow such center lines;

(5) Boundaries indicated as parallel to or extensions of divisions (B)(1) through (4) of this section shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Official Map.

(6) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by divisions (B)(1) through (5) of this section, the Board of Zoning Adjustment shall interpret the district boundaries.
(Ord. 6884, passed 6-8-84)

§ 152.128 AREAS UNASSIGNED TO A ZONING DISTRICT.

When any area shall hereafter become a part of the incorporated area of the city, the Zoning Board shall initiate the amendment procedure within one month after the date of annexation of such area in order to assign such area to a zoning district. Building permits shall not be issued for such area until it is assigned to a zoning district.
(Ord. 6884, passed 6-8-84)

ZONING DISTRICT REGULATIONS

§ 152.140 RESIDENTIAL DISTRICTS.

The following regulations shall apply in residential districts in accordance with the specifications given in the Schedule of Dimension and Area Regulations:

(A) Uses permitted.

- (1) Single-family dwellings in R-1, R-2 Districts.
- (2) Double-family dwellings in R-2 Districts.
- (3) Multiple-family dwellings in R-2 Districts.

(B) Accessory structures and uses permitted.

- (1) Private pools, fenced or covered so as to prevent unauthorized or accidental use by children.
- (2) Garage or other buildings not used as a dwelling and accessory to the principal use.
- (3) Renting of no more than three sleeping rooms in any one building.
- (4) Home occupations. Permitted home occupations may be identified on the premises according to §§ 152.095 through 152.097. No display or change in facade shall indicate from the exterior that the building is being utilized partly for a nonresidential purpose.

(C) Conditional uses.

- (1) Non-profit public or non-profit private facilities such as schools, churches, cemeteries, libraries, parks, recreational facilities, hospitals, institutions, and the like.
 - (2) Mobile home parks in conformance with § 152.050 of this chapter.
 - (3) Individual mobile homes in conformance with § 152.050 of this chapter.
- (Ord. 6884, passed 6-8-84)

§ 152.141 GENERAL HIGHWAY COMMERCIAL DISTRICT; C-1.

(A) General description.

- (1) The General Highway Commercial District is for the conduct of retail trade and personal service enterprises to meet the regular needs and for the convenience of the people of adjacent residential areas and to provide services to the motoring public, some part of which is through traffic.
- (2) No uses permitted in this District shall be dangerous or offensive or detrimental to the present or intended character of the district or vicinity by reason of the emission of dust, gas, smoke, noise, fumes, glare, odors, vibrations, or fire hazard.

(B) Uses permitted.

- (1) Property and buildings in the C-1 General Highway Commercial District shall be used only for the following purposes:

- (a) Antique shop.
 - (b) Automobile service station.
 - (c) Automobile sales (new and used), truck, mobile home and boat sales and service.
 - (d) Automobile parking lot.
 - (e) Banks and other financial institutions, including loan and finance companies, providing the principal or main office is not located in this district.
 - (f) Curio or gift shop.
 - (g) Drug store or soda fountain.
 - (h) Garages for repair of motor vehicles within a closed building.
 - (i) Gasoline service stations, including normally related services but not including automobile repair.
 - (j) Grocery store or supermarket.
 - (k) Motels, tourist cabins, and tourist courts.
 - (l) Restaurants, grills, cafes, and similar eating establishments.
 - (m) Self-service laundries.
- (2) Name plate and sign relating only to the use of the store and premises in accordance with §§ 152.095 through 152.097 of this chapter.
- (3) Accessory buildings and uses customarily incidental to the above uses.
- (C) Uses prohibited.
- (1) Any business use which is primarily of a wholesale, storage, warehousing, or industrial nature.
 - (2) Animal hospital, coal yard or lumber yard, live animal or poultry sales, gasoline, oil, alcohol, or other volatile or flammable material storage above ground in excess of 500 gallons, ice plant, automobile graveyard or disassembly plant, and any other uses which in the opinion of the Board of Zoning Adjustment would be detrimental to the development of the General Highway Commercial District as a retail shopping center.
 - (3) Any type of residence, except where such residence is an incidental use to the principal use on the lot and located within the building housing the principal use.

(D) Special regulations. There shall be no outdoor storage or display of merchandise and no outdoor processing or services shall be rendered unless authorized as a conditional use. All structures accessory to an outdoor conditional use shall be located at least 35 feet from front lot lines.

(E) Conditional uses. Outdoor storage, display, processing, or service rendered.

(F) Dimension and area regulations for lots and structures. The regulations on the dimensions and area for lots and structures are set forth in the Schedule of Dimension and Area Regulations. The applicable regulations shall be observed in the General Highway Commercial District, C-1. (Ord. 6884, passed 6-8-84)

§ 152.142 CENTRAL COMMERCIAL DISTRICT; C-2.

(A) Uses permitted.

(1) Any retail business or retail service.

(2) Places of amusement and assembly, offices, hotels, motels, used car lots, garages, and other motor vehicle services.

(3) Any manufacturing or processing establishment that does not create dust, smoke, noise, or odor outside the lot on which it is located and employing not more than ten persons, including the owner or operator.

(4) Dwelling units occupying the same building as the principal business.

(5) Name plate and sign relating only to the use of the store and premises or to products sold on the premises in accordance with the provisions of §§ 152.095 through 152.097 of this chapter.

(B) Uses prohibited. Uses which in the opinion of the Board of Adjustment would be detrimental to the development of the Central Commercial District as a retail shopping center.

(C) Special regulations. As provided by § 152.141(D) of this chapter.

(D) Conditional uses.

(1) Public facilities such as libraries, parks, recreational facilities, hospitals, institutions, public communications media, and the like.

(2) Outdoor storage, display, processing, or services rendered.

(E) Dimension and area regulations for lots and structures. The regulations on the dimensions and area for lots and structures are set forth in the Schedule of Dimension and Area Regulations. The

applicable regulations shall be observed in the Central Commercial District, C-2.
(Ord. 6884, passed 6-8-84)

§ 152.143 GENERAL INDUSTRIAL DISTRICT; I-1.

(A) General description. This industrial district is intended primarily for manufacturing and assembly plants and warehousing conducted so the noise, odor, dust, and glare of each operation is completely confined within an enclosed building.

(B) Uses permitted. The following uses are permitted in the 1-1 General Industrial District, but shall require the written approval of the Zoning Board and the Board of Zoning Adjustment and shall be considered as conditional uses.

(1) Manufacturing, fabrication, and/or processing of any commodity.

(2) Retail sales of any commodity manufactured, fabricated or processed on the premises, or of any commodity designed especially for use in agriculture, mining, industry, business, transportation or construction, including but not limited to the following uses:

(a) Building material sales yard and lumber yard, including the sale of rock, sand, gravel, and the like as an incidental part of the main business

(b) Contractor s equipment storage yard or plant, or rental of equipment commonly used by contractors.

(c) Wholesale sale or storage of any article.

(d) Animal hospital.

(e) Any use which in the opinion of the Board of Zoning Adjustment would not emit detrimental or obnoxious noise, vibration, smoke, odors, dust, and/or other objectionable conditions beyond the confines of its property.

(C) Accessory structures and uses permitted.

(1) Dwelling unit for caretaker or watchman employed by the industrial firm.

(2) Garages and other buildings and used accessory to the principal use.

(D) Special regulations. There shall be no outdoor storage, display, or processing of products in any industrial district unless authorized as a conditional use. All structures accessory to an outdoor conditional use shall be located at least 25 feet from front lot lined.

(E) Conditional uses.

- (1) All light or heavy industry.
- (2) Outdoor storage, display, or processing.

(F) Dimension and area regulations for lots and structures. The regulations on the dimensions and area for lots and structures are set forth in the Schedule of Dimension and Area Regulations. The applicable regulations shall be observed in the General Industrial District.

(Ord. 6884, passed 6-8-84)

BOARD OF ADJUSTMENT

§ 152.155 APPOINTMENT, REMOVAL OF MEMBERS; VACANCIES.

A Board of Adjustment is hereby established, which shall consist of three members, all of whom must be citizen members, and not more than two of whom may be citizen members of the . Members shall be appointed by the Mayor, subject to the approval of the City Council, each for a period of four years, but the term of office of members first appointed shall be staggered so that a proportionate number serve two, three, and four years respectively. Members of the Board of Adjustment may be removed from office by the appropriate appointing authority for cause upon written charges and after public hearing. Vacancies shall be filled within 60 days by the appropriate appointing authority.

(Ord. 6884, passed 6-8-84)

Statutory reference:

Board of Adjustment; membership; appointment; terms; vacancies; oath; compensation; removal; officers, see KRS 100.217

§ 152.156 POWERS.

The Board of Adjustment shall have the following powers:

(A) Administrative review. The Board of Adjustment shall have the power to hear and decide cases where it is alleged by an applicant that there is error in any order, requirement, decision, grant or refusal made by an administrative official in the enforcement of the zoning regulation. Such appeal shall be taken within 60 days.

(B) Conditional use permits. The Board shall have the power to hear and decide applications for conditional uses in conformance with 152.021 of this chapter, pursuant to KRS 100.237.

(C) Dimensional variance. Pursuant to KRS 100.240, the Board shall have the power to hear and decide on applications for dimensional variances where, by reason of the exceptional narrowness, shallowness, or unusual shape of a site on the effective date of the zoning regulation, or by reason of

exceptional topographic conditions, or some other extraordinary situation or condition of that site the literal enforcement of the dimensional requirements (height or width of building or size of yards, but not population density,) of the zoning regulation would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone. The Board may impose any reasonable conditions or restrictions on any variance it decides to grant. (Ord. 6884, passed 6-8-84)

§ 152.157 APPEAL PROCEDURE.

(A) Procedure for all appeals to Board. Appeals to the Board may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action or decision of any administrative official. Such appeal shall be taken within 30 days after the appellant or his agent receive notice of the action appealed from by filing with said official and with the Board a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. Said official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At any hearing by the Board any interested person may appear and enter his appearance, and all shall be given an opportunity to be heard.

(B) Public notice of appeal hearing. The Board shall fix a reasonable time for hearing the appeal and give public notice in accordance with KRS Chapter 424, as well as written notice to the appellant and the administrative official and property owners within 100 feet of the property in question at least one week prior to the hearing, and shall decide it within 60 days. The affected party may appear at the hearing in person or by attorney. The Board shall charge a nonrefundable fee as specified in the bylaws. (Ord. 6884, passed 6-8-84)

§ 152.158 DIMENSIONAL VARIANCE; PROCEDURE.

(A) Findings necessary for granting variances. Before any variance is granted, the Board must find all of the following, which shall be recorded along with any imposed conditions or restrictions in its minutes and records and issued in written form to the applicant to constitute proof of the dimensional variance.

(1) The specific conditions in detail which are unique to the applicant's land and do not exist on other land in the same zone.

(2) The manner in which the strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land in the manner equivalent to the use permitted other landowners in the same zone.

(3) That the unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation.

(4) Reasons that the variance will preserve, not harm the public safety and welfare, and will not alter the essential character of the neighborhood.

(B) Variances cannot contradict zoning regulations. The Board shall not possess the power to grant a variance to permit a use of any land, building, or structure which is not permitted by the zoning regulation in the zone in question or to alter density requirements in the zone in question.

(C) Dimensional variance runs with land. A dimensional variance applies to the property for which it is granted and not to the individual who applied for it. A variance also runs with the land and is transferable to any future owner of the land, but it cannot be transferred by the applicant to a different site.

(D) Public notice and notice to adjoining property owners shall be given in the same manner as that required for conditional use applications.

(Ord. 6884, passed 6-8-84)

PLANNING AND ZONING BOARD

§ 152.170 MEMBERSHIP.

The Municipal Planning and Zoning Board shall consist of seven members, three of whom shall be members ex officio. The ex officio members shall be as follows: The mayor, one of the administrative officials of the municipality selected by the Mayor; and a member of the legislative body selected by the legislative body. The four additional members shall be appointed by the Mayor. All members of the Zoning Board shall serve, as such, without compensation, and the appointed members shall hold no other city office. The terms of ex officio members shall correspond to their respective official tenures, except that the term of administrative official selected by the Mayor shall terminate with the term of the Mayor selecting him/her. The term of each appointed member shall be six years and until his successor takes office.

(Ord. 41480, passed 4-14-80)

§ 152.171 CHAIRPERSON; ADOPTION OF RULES; STAFF; FINANCES.

The Municipal Planning and Zoning Board shall elect its chairperson from among its appointive members. The term of chairperson shall be one year with eligibility of reelection. The Zoning Board shall adopt rules for the transactions, finding and determinations, which record shall be a public record. The Zoning Board may appoint such employees and staff as it may deem necessary for its work and may contact with city planners and other consultants for such services as it may require. The expenditures of the Zoning Board, exclusive of gifts, shall be within the amounts appropriated for the purpose by the City Council.

(Ord. 41480, passed 4-14-80)

§ 152.172 POWERS AND DUTIES.

From and after the time when the Municipal Planning and Zoning Board shall have organized and selected its officers, together with the adoption of its rules of procedure, then the Board shall have all, the powers, duties and responsibilities as set forth in KRS Chapter 100.650, or other statutes relating to the duties and powers of municipal planning commissions adopted subsequent thereto.
(Ord. 41480, passed 4-14-80)

AMENDMENTS**§ 152.185 AMENDMENTS TO ZONING CODE.**

Pursuant to KRS 100.211, a proposal for amendment to this chapter may originate with the Zoning Board, with the City Council, or with the owner of the property in question. All amendments must be referred to the Zoning Board before adoption. At least one public hearing shall be held by the Zoning Board on the proposed amendment after notice of the hearing has been given as required by KRS Chapter 424. After the public hearing, the Zoning Board shall make recommendations to the City Council to override the recommendations of the Zoning Board.
(Ord. 6884, passed 6-8-84)

§ 152.186 AMENDMENTS TO THE ZONING MAP.

Pursuant to KRS 100.213, the Zoning Board and the City Council must find that the map amendment is in agreement with the Comprehensive Plan before any map amendment is granted. In the absence of such findings, the Zoning Board and the City Council shall find that one or more of the following apply:

(A) That the original zoning classification given to the property was inappropriate or improper.

(B) That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the Comprehensive Plan and which have substantially altered the basic character of such area.
(Ord. 6884, passed 6-8-84)

§ 152.187 ZONING BOARD TO APPROVE CHANGES IN ZONING CODE AND MAP.

Pursuant to KRS 100.321, the City Council must refer any change in the Zoning Code and map to the Zoning Board for its review before adoption. The Zoning Board shall review the proposed change, and shall, within 60 days from the date of its receipt advise the City Council whether it approves or disapproves of the change. If the Zoning Board disapproves, a written statement of the reasons for disapproval shall be transmitted to the City Council. A majority of the entire membership

of the City Council shall be required to override the disapproval of the Zoning Board.
(Ord. 6884, passed 6-8-84)

§ 152.188 CURRENCY OF ZONING MAP.

The Zoning Board and the administrative official shall ensure that amended zoning district boundaries are accurately placed on the certified copies of the zoning map and shall initial and date all such additions to the map.

(Ord. 6884, passed 6-8-84)

ADMINISTRATION AND ENFORCEMENT

§ 152.200 ENFORCEMENT OFFICER.

The Mayor shall appoint as administrative official an enforcement officer who may be a member of the Zoning Board and who shall be charged and provided with the authority to enforce the ordinances, regulations, and codes governing land development and use and to issue building permits and certificates of occupancy. The Zoning Board may establish a schedule of reasonable fees to be charged for the issuance of such permits and certificates by the administrative official. The administrative official, in the performance of his duties and functions, may either upon any land and in examinations and surveys that do not occasion damage or injury to private property.

(Ord. 6884, passed 6-8-84)

§ 152.201 BUILDING PERMITS REQUIRED PRIOR TO CONSTRUCTION OR ALTERATION.

It shall be unlawful to commence any excavation or construction or alteration of any structure until the administrative official has issued a building permit authorizing such work except as specified in § 152.110 and 152.202 of this chapter. No permit shall be issued by the city on any development, fill or any matter of construction located in the floodplain in the city until a floodplain permit has been applied for and received from the Commonwealth of Kentucky Natural Resources and Environmental Protection Division of Water, said application will be supplied by the city.

(Ord. 6884, passed 6-8-84)

§ 152.202 EXCEPTIONS.

No building permit or certificate of occupancy shall be required in the following cases:

- (A) Recurring maintenance work, regardless of cost.

(B) Installation of required improvements according to an approved preliminary subdivision plat.

(C) Excavation, construction, or alteration of those structures and uses listed in § 152.110.
(Ord. 6884, passed 6-8-84)

§ 152.203 PROCEDURE FOR ISSUANCE OF BUILDING PERMIT.

(A) Application. In applying to the administrative official for a building permit, the applicant shall submit with the application a plan drawn to scale, showing the dimensions of all structures to be constructed or altered and all existing structures, the case of all structures, yard depths, and any other information necessary for determining conformance with this chapter. The County Health Officer's certificate approving proposed water and sewerage facilities must accompany applications according to § 152.037 of this chapter.

(B) Permanent file. The administrative official shall keep a permanent file of all applications with accompanying plans and all permits issued.

(C) Issuance. If the proposed construction or alteration conforms with all applicable provisions of this chapter and all other applicable ordinances, regulations, and codes, the administrative official shall refuse to issue a building permit and shall deliver written notice to the applicant stating the reasons for the refusal. The administrative official shall act upon applications for building permits within two weeks after the date of their submission.

(D) Validity. The issuance of a building permit by the administrative official shall not waive any provision of this chapter.

(E) Duration. A building permit shall become void six months from the date of issuance unless an extension is granted by the administrative official on presentation of valid reason for such extension.
(Ord. 6884, passed 6-8-84)

§ 152.204 CERTIFICATES OF OCCUPANCY.

(A) Required prior to occupancy, change of use, and under use conditions. It shall be unlawful to use any newly erected or altered structure or to change the use of any premises even though no structure was erected or altered until the administrative official has issued a certificate of occupancy authorizing such use. The Zoning Board may authorize the administrative official to require that non-conforming uses or any existing uses shall maintain valid certificates of occupancy identifying them as non-conforming uses or permitted uses as applicable.

(B) Procedure.

(1) Application. In applying to the administrative official for a certificate of occupancy, the applicant shall notify the administrative official in writing of the date on which any new or altered structure or the new use of any premises will be ready to commence. The County Health Officer's

certificate must accompany applications according to § 152.037 of this chapter.

(2) Permanent file. The administrative official shall keep a permanent file of all applications and all certificates issued.

(3) Issuance. If the newly erected or altered structure and the new use of premises conform with all applicable ordinances, regulations, and codes, the administrative official shall issue a certificate of occupancy authorizing the use thereof. If the structure or use fail to conform, the administrative official shall refuse to issue a certificate of occupancy and shall deliver written notice to the applicant stating the reasons for the refusal. The administrative official shall inspect a new structure or the premises for which a new use is proposed and shall issue or refuse a certificate of occupancy within three days after the date on which the new use is ready to commence.

(4) Validity. The issuance of a certificate of occupancy by the administrative official shall not waive any provisions of this chapter.
(Ord. 6884, passed 6-8-84)

§ 152.205 REMEDIES.

In such case any building is erected, constructed, reconstructed, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter, the administrative official or any other appropriate authority, or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies may institute an injunction, mandamus or other appropriate action of proceeding to prevent the occupancy of such building, structure, or land.
(Ord. 6884, passed 6-8-84)

§ 152.999 PENALTY.

Any person violating any provisions of this chapter shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$10 nor more than \$500 for each offense. Each day such violation shall continue shall constitute a separate offense.
(Ord. 6884, passed 6-8-84)

APPENDIX: SCHEDULE OF DIMENSION AND AREA REGULATIONS

CHAPTER 37: PERSONNEL POLICIES AND PROCEDURES

Section

37.01 Adoption by reference

§ 37.01 ADOPTION BY REFERENCE.

The city has adopted personnel policies and procedures. A copy of these policies and procedures, as hereafter amended, are available for public inspection in the office of the City Clerk during normal business hours.

(Ord. 21892, passed 2-18-92; Am. Ord. 011993, passed 1-19-93; Am. Ord. 51794, passed 5-17-94; Am. Ord. 111897, passed 11-18-97; Ord. 111897A, passed 11-18-97; Am. Ord. 031600, passed 3-16-00; Am. Ord. 052407, passed - - ; Am. Ord. 052407A, passed 6-19-08; Am. Ord. 061908B, passed 6-19-08; Am. Mun. Order 111810, passed 11-18-10; Am. Ord. 122012A, passed 12-20-12; Am. Ord. 030316, passed 3-4-16; Am. Ord. 072017, passed 7-20-17; Am. Ord. 082020, passed 8-20-20)

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CHAPTER 38: POLICE DEPARTMENT

Section

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GENERAL PROVISIONS

§ 38.001 RIGHTS, PRIVILEGES AND DUTIES.

(A) Officers of the Department shall abide by and adhere to the rules and regulations set forth by federal and state laws, local ordinances, and departmental regulations, provided that no such rule, regulation or law shall apply that alters, abridges or otherwise restricts the constitutional rights of the officer.

(B) Except when on duty, officers shall not be restrained from exercising their rights and privileges or from entering into any endeavor enjoyed by all other citizens of the city.
(Ord. 62791-A, passed 6-27-91)

§ 38.002 COMPLIANCE WITH LAWS.

Officers shall obey all laws of the United States and of any state and local jurisdiction in which the officers are present.
(Ord. 62791-A, passed 6-27-91)

§ 38.003 REQUIRED CONDUCT; DISCREDITING DEPARTMENT.

(A) Officers shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on the Department.

(B) Conduct unbecoming an officer shall include that which brings the Department into disrepute or reflects discredit upon the officer as a member of the Department, or that which impairs the operation or efficiency of the Department or officer.

(C) Officers shall maintain a level of moral conduct in their personal and business affairs which is in keeping with the highest standards of the law enforcement profession.

(D) Officers shall not participate in any incident involving moral turpitude which impairs their ability to perform as law enforcement officers or cause the Department to be brought in disrepute.
(Ord. 62791-A, passed 6-27-91)

§ 38.004 REPORTING FOR DUTY.

Officers shall report for duty at the time and place required by assignment or orders and shall be physically and mentally fit to perform their duties. They shall be properly equipped and cognizant of information required for the proper performance of duty so that they may immediately assume their duties. Judicial subpoenas shall constitute an order to report for duty.
(Ord. 62791-A, passed 6-27-91)

§ 38.005 PERSONAL APPEARANCE.

(A) Officers on duty shall maintain a neat, well-groomed appearance.

(B) Uniforms shall be worn in accordance with established departmental policy.
(Ord. 62791-A, passed 6-27-91)

§ 38.006 IDENTIFICATION; FURNISHING NAME AND BADGE NUMBER.

(A) Officers shall carry their badges and identification on their persons at all times, except when impractical or dangerous to their safety or to an investigation.

(B) Officers shall furnish their name and badge number to any person requesting that information when they are on duty or while holding themselves out as having an official capacity, except when the withholding of information is necessary for the performance of police duties or is authorized by proper authority.
(Ord. 62791-A, passed 6-27-91)

§ 38.007 CARRYING CONCEALED DEADLY WEAPONS.

Officers may carry concealed deadly weapons, on or off duty, in accordance with law and established Departmental procedures.
(Ord. 62791-A, passed 6-27-91)

§ 38.008 PHYSICAL FITNESS REQUIREMENTS.

(A) Officers shall maintain a level of physical fitness that will enable them to perform the requirements of the job.

(B) Upon the order of the Chief, officers may be required to maintain a proper proportion of height and weight for their body and/or submit to a physical readiness test to determine their fitness level.
(Ord. 62791-A, passed 6-27-91)

§ 38.009 REQUESTS FOR ASSISTANCE.

When any person applies for assistance or advice, or makes complaints or reports, either by telephone or in person, all pertinent information will be obtained in an official and courteous manner and will be properly and judiciously acted upon in accordance with established departmental procedures.
(Ord. 62791-A, passed 6-27-91)

§ 38.010 COURTESY REQUIRED.

(A) Officers shall be courteous to the public, tactful in the performance of their duties, maintain control of their temps, exercise the utmost patience and discretion, and shall not engage in argumentative discussions even in the face of extreme provocation.

(B) In the performance of their duties, officers shall not use coarse, violent, profane or insolent language or gestures, and shall not express any prejudice concerning race, religion, politics, national origin, lifestyle or similar personal characteristics.
(Ord. 62791-A, passed 6-27-91)

§ 38.011 OPERATION OF VEHICLES.

(A) Officers shall operate official vehicles in a careful and prudent manner, and shall obey all laws and all departmental orders pertaining to such operation.

(B) Loss or suspension of any driver's license shall be reported to the Department immediately.
(Ord. 62791-A, passed 6-27-91)

§ 38.012 USE OF DEPARTMENT EQUIPMENT.

(A) Officers shall utilize Departmental equipment only for its intended purpose, in accordance with established Departmental procedures, and shall not abuse, damage or lose equipment.

(B) All Departmental equipment issued to officers shall be maintained in proper order.
(Ord. 62791-A, passed 6-27-91)

§ 38.013 TELEPHONES; LONG DISTANCE CALLS.

(A) Officers shall have a telephone at their place of residence, and shall immediately report the telephone number or any change in number to the Chief.

(B) No member shall make long distance telephone calls which are charged to the Department, except in an emergency or otherwise authorized, without the approval of the Chief. Appropriate records shall be maintained on all long distance calls.
(Ord. 62791-A, passed 6-27-91)

§ 38.014 RESIDENCE; CHANGE OF ADDRESS.

All officers shall insure that a current residence address is on file with the Chief; the Chief shall be notified immediately of any change in address.
(Ord. 62791-A, passed 6-27-91)

§ 38.015 DEPARTMENTAL REPORTS.

Officers shall submit all necessary reports on time and in accordance with established Departmental procedures. Reports submitted by officers shall be truthful and complete, and no officer shall knowingly enter or cause to be entered any inaccurate, false or improper information.
(Ord. 62791-A, passed 6-27-91)

§ 38.016 REPORTING CRIMINAL OFFENSE.

Officers who witness or who have knowledge of other officer(s) committing and/or having involvement in committing a criminal offense shall report this information in writing to the Chief.
(Ord. 62791-A, passed 6-27-91)

§ 38.017 GROUNDS FOR DISCIPLINARY ACTION.

Grounds for disciplinary action, see Chapter 37, Personnel Policies.
(Ord. 62791-A, passed 6-27-91)

§ 38.018 VIOLATION OF DEPARTMENT POLICIES; RULES.

Officers shall neither commit nor omit any acts which constitute a violation of any of the policies, rules or regulations, or orders of the Department, whether stated in this manual or otherwise.
(Ord. 62791-A, passed 6-27-91)

§ 38.019 NEGLECT OF DUTY.

Officers shall not read, play games, watch television or movies, or otherwise engage in entertainment while on duty, except as may be required in the performance of duty. They shall not engage in any activities or personal business which would cause them to neglect or be inattentive to duty unless approved in advance by the Chief.
(Ord. 62791-A, passed 6-27-91)

§ 38.020 LEAVING DUTY POST.

Officers shall not leave their assigned duty posts during a tour of duty except when authorized by proper authority.
(Ord. 62791-A, passed 6-27-91)

§ 38.021 SLEEPING ON DUTY.

Officers shall remain awake while on duty. If unable to do so, they shall report to the Chief, who shall determine the proper course of action.
(Ord. 62791-A, passed 6-27-91)

§ 38.022 FICTITIOUS ILLNESS OR INJURY.

Officers shall not feign illness or injury, falsely report themselves ill or injured, or otherwise deceive or attempt to deceive any official of the Department as to the condition of their health.
(Ord. 62791-A, passed 6-27-91)

§ 38.023 GAMBLING.

Officers shall not engage or participate in any form of illegal gambling at any time, except in the

performance of duty and while acting under proper and specific orders from the Chief.
(Ord. 62791-A, passed 6-27-91)

§ 38.024 USE OF OFFENSIVE LANGUAGE.

Officers shall not use language patterns that may be offensive to racial, ethnic, religious or other groups. The use of nicknames, vulgarity, stereotyped terms, ethnic or religious jokes are examples of such language patterns deemed inappropriate.

(Ord. 62791-A, passed 6-27-91)

§ 38.025 VISITING PROHIBITED ESTABLISHMENT.

Officers shall not knowingly visit, enter or frequent any establishment wherein the laws of the United States, the Commonwealth of Kentucky, or the local government are regularly violated except in the performance of duty or while acting under proper and specific orders from the Chief.

(Ord. 62791-A, passed 6-27-91)

§ 38.026 ASSOCIATION WITH PERSONS INVOLVED IN CRIMINAL BEHAVIOR.

Officers shall use the utmost discretion in establishing regular and continuous association with persons whom they know or should know are under criminal investigation or indictment, or who are known to the Department to have present involvement in felonious or criminal behavior, except as necessary in the performance of official duties or where unavoidable because of personal relationships.

(Ord. 62791-A, passed 6-27-91)

§ 38.027 USE OF INTOXICATING BEVERAGES.

(A) Officers shall neither drink nor be under the influence of any type of alcoholic beverage while on duty unless special permission is provided by the Chief, and they only as necessary to procure evidence not otherwise obtainable.

(B) Officers shall not use intoxicants while off duty to the extent that evidence of such consumption is apparent to the public.

(Ord. 62791-A, passed 6-27-91)

§ 38.028 POSSESSION AND USE OF DRUGS.

Officers shall not possess or use any controlled substances, narcotics, or hallucinogens except when prescribed in the treatment of officers by a physician or dentist. When controlled substances,

narcotics, or hallucinogens are prescribed, officers shall notify the Chief immediately.
(Ord. 62791-A, passed 6-27-91)

§ 38.029 ALCOHOLIC BEVERAGES, DRUGS IN POLICE INSTALLATION.

Officers shall neither store nor bring into any police facility or vehicle alcoholic beverages, controlled substances, narcotics or hallucinogens except those which are held as evidence.
(Ord. 62791-A, passed 6-27-91)

§ 38.030 PAYMENT OF DEBTS.

(A) Officers shall not undertake any financial obligations which they know or should know they will be unable to meet.

(B) Officers shall pay all just debts when due.
(Ord. 62791-A, passed 6-27-91)

§ 38.031 SOLICITATION; ACCEPTANCE OF GIFTS OR GRATUITIES.

No officer or group of officers shall solicit or accept either directly or indirectly any gifts, rewards, gratuities or other benefits from any person or business which may be in a position to benefit from such action, unless specifically and individually authorized by the Chief.
(Ord. 62791-A, passed 6-27-91)

§ 38.032 ENDORSEMENTS AND REFERRALS.

Officers shall not recommend or suggest in any manner, except in the transaction of personal business, the employment or procurement of a particular product, professional service, or commercial service. In the case of ambulance or towing service, when such service is necessary and the person needing the service is unable or unwilling to procure it or requests assistance, officers shall proceed in accordance with established Departmental procedures.
(Ord. 62791-A, passed 6-27-91)

§ 38.033 ABUSE OF POSITION.

(A) Officers shall not use their official position, identification cards, or badges for personal or financial gain, for obtaining privileges not otherwise available to them except in the performance of duty, or for avoiding consequences of illegal acts. Officers shall not lend to another person their identification cards or badges or permit them to be photographed or reproduced without approval of the Chief.

(B) Officers shall not authorize the use of their names, photographs, or official titles which identify them as officers, in connection with testimonials or advertisements of any commodity or commercial enterprise, without the prior approval of the Chief.
(Ord. 62791-A, passed 6-27-91)

§ 38.034 FALSE ACCUSATIONS.

Officers shall not make false accusations of a criminal or traffic charge.
(Ord. 62791-A, passed 6-27-91)

§ 38.035 APPLICATION OF CITY POLICIES; PROCEDURES.

The general administrative policies and procedures of the city shall apply to all members of the Department.
(Ord. 62791-A, passed 6-27-91)

§ 38.036 ISSUANCE OF ORDERS.

The Chief shall execute authority by issuing such oral or written orders to the members of the Department as may be necessary to best accomplish the work of the Department, provided such orders are not in conflict with enacted legislation, rules and regulations, general orders, or other directives or orders as issued by a superior authority as established in the official policy of the Department.
(Ord. 62791-A, passed 6-27-91)

§ 38.037 CONFLICTING; ILLEGAL ORDERS.

(A) Officers who are given an otherwise proper order which is in conflict with a previous order, rule, regulation or directive shall respectfully inform the superior officer issuing the order of the conflict. If the superior officer issuing the order does not alter or retract the conflicting order, the order shall stand. Under these circumstances the responsibility for the conflict shall be upon the superior officer. Officers shall obey the conflicting order and shall not be held responsible for disobedience of the order, rule, regulations or directive previously issued.

(B) Officers shall not obey any order which they know or should know would require them to commit any illegal act. If in doubt as to the legality of an order, officers shall request the issuing officer to clarify the order or to confer with higher authority.
(Ord. 62791-A, passed 6-27-91)

§ 38.038 INSUBORDINATION.

Officers shall promptly obey any lawful order of a superior officer. This will include orders

relayed from a superior officer by an officer of the same or lesser rank.
(Ord. 62791-A, passed 6-27-91)

§ 38.039 INTERFERENCE WITH CASES BEING HANDLED BY OTHERS.

(A) Officers shall not interfere with cases being handled by other officers of the Department or by any other governmental agency unless ordered to intervene by a superior officer, or the intervening officer believes beyond a reasonable doubt that a manifest injustice would result from failure to take immediate action.

(B) Officers shall not undertake any investigation or other official action not part of their regular duties without obtaining permission from the Chief, unless the exigencies of the situation require immediate police action.
(Ord. 62791-A, passed 6-27-91)

§ 38.040 DISSEMINATION OF INFORMATION; CONFIDENTIALITY.

Officers shall treat the official business of the Department as confidential. Information regarding official business shall be disseminated only to those for whom it is intended as determined by the Chief.
(Ord. 62791-A, passed 6-27-91)

§ 38.041 PUBLIC STATEMENTS; CRITICIZING DEPARTMENT.

(A) Officers shall not address public gatherings, appear on television or radio, prepare any articles for publication, act as a correspondent to a newspaper or periodical, release or divulge investigative information, or any other matters of the Department while holding themselves out as representing the Department in such matters without prior approval of the Chief. Officers may lecture on police or other related subjects only with the prior approval of the Chief.

(B) Public statements to the media regarding Departmental business, internal affairs, homicides or other serious crimes or routine matters may be made only by the Chief or designated officer.

(C) Officers shall not publicly criticize or ridicule the Department, its policies, or other officers by speech, writing, or other expression, where such speech, writing, or other expression is defamatory, obscene, unlawful, undermines the effectiveness of the Department, interferes with the maintenance of discipline, or is made with reckless disregard for truth or falsity.
(Ord. 62791-A, passed 6-27-91)

§ 38.042 TRUTHFULNESS.

Upon the order of the Chief, officers shall truthfully answer all questions which may be asked of

them specifically directed and narrowly related to the scope of employment, operations of the Department, or conduct.

(Ord. 62791-A, passed 6-27-91)

§ 38.043 USE OF POLYGRAPH; MEDICAL EXAMINATIONS; PHOTOGRAPHS; LINE-UPS.

Officers may be asked to submit to certain investigative procedures as a part of the normal police operations; such procedures shall be in compliance with federal and state laws, and the rights of the officer shall be protected during any investigative procedures.

(Ord. 62791-A, passed 6-27-91)

§ 38.044 ARREST, SEARCH AND SEIZURE.

Officers shall not make any arrest, search or seizure which they know or should know is not in accordance with law and Departmental procedures.

(Ord. 62791-A, passed 6-27-91)

§ 38.045 USE OF FORCE.

Officers shall not use more force in any situation than is reasonably necessary under the circumstances. Officers shall use force in accordance with law and departmental procedures.

(Ord. 62791-A, passed 6-27-91)

§ 38.046 USE OF WEAPONS.

Officers shall use weapons in accordance with law and departmental procedures, and shall not handle weapons in a careless or imprudent manner.

(Ord. 62791-A, passed 6-27-91)

§ 38.047 TREATMENT OF PERSONS IN CUSTODY.

Officers shall not mistreat persons who are in their custody. Officers shall handle such persons in accordance with law and departmental procedures.

(Ord. 62791-A, passed 6-27-91)

§ 38.048 PROCESSING PROPERTY AND EVIDENCE.

Property or evidence which has been discovered, gathered or received in connection with departmental responsibilities will be processed in accordance with established departmental procedures. Officers shall not convert to their own use, manufacture, conceal, falsify, destroy, remove, tamper

with or withhold any property or evidence in connection with an investigation or other police action, except in accordance with established departmental procedures.
(Ord. 62791-A, passed 6-27-91)

§ 38.049 EMPLOYMENT OUTSIDE OF DEPARTMENT.

(A) Officers may engage in off-duty employment only with the written approval of the Chief.

(B) Officers shall submit a written request for off-duty employment to the Chief, and approval must be granted prior to engaging in such employment.

(C) Officers shall not engage in off-duty employment or business where such employment would constitute a clear conflict of interest.

(D) Approval of off-duty employment may be denied where it appears that the outside employment might:

(1) Render the officer unavailable during emergency;

(2) Physically or mentally exhaust the officers to the point that their performance may be affected;

(3) Require that any special consideration be given to scheduling of the officer's regular duty hours; or

(4) Bring the department into disrepute or impair the operation or efficiency of the department or officer.

(Ord. 62791-A, passed 6-27-91)

§ 38.050 UNSATISFACTORY PERFORMANCE.

(A) Officers shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Officers shall perform their duties in a manner which will maintain highest standards of efficiency in carrying out the functions and objectives of the Department.

(B) Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the officers' rank, grade or position; the failure to take appropriate action on the occasion of a crime, disorder or other condition deserving police attention; or absence without leave.

(C) Repeated poor evaluations or a written record of repeated infractions of rules, regulations,

directives or orders of the Department will be considered evidence of unsatisfactory performance.
(Ord. 62791-A, passed 6-27-91)

§ 38.051 CITIZEN COMPLAINTS.

Complaints against police officers must be presented to the City Clerk in writing, and the signature must be either notarized or witnessed. After receiving the complaint(s), the City Clerk shall notify the citizen of the Department's complaint procedure; and notify the Chief of the complaint.
(Ord. 62791-A, passed 6-27-91)

§ 38.052 PROCEDURES FOR HEARING COMPLAINTS.

Hearings for complaints against sworn police personnel shall be in accord with the provisions of the Police Officers' Bill of Rights.
(Ord. 62791-A, passed 6-27-91)

Statutory reference:

Complaints against police officers; manner of investigation and hearing, KRS 15.520

§ 38.053 VOLUNTARY WAIVER OF RIGHTS TO HEARING.

Officers may waive their right to a hearing and accept the recommendations of the Mayor or Chief concerning disciplinary action, provided the officer has been informed of the Mayor or Chief's recommendation both in writing and verbally in a personal conference.
(Ord. 62791-A, passed 6-27-91)

§ 38.054 POLICE FORCE.

- (A) There hereby is established a regular police force for the city.
- (B) These members shall be appointed by the Mayor.
- (C) They shall possess the same powers as officers of a regular police department.
- (D) The powers of the Chief of Police or police officer will follow KRS 95.740.
- (E) The qualifications for these officers will follow KRS 95.710.

(F) All officers shall take an oath as setforth in KRS 95.760.
(Ord. 031699, passed 3-16-99)

DEPARTMENTAL POLICIES AND PROCEDURES

§ 38.070 PERFORMANCE EVALUATIONS.

(a) Sworn police officers may be evaluated at least bimonthly during probation periods and annually after the probation period.

(B) All performance evaluations shall be conducted in accordance with the procedures established by the Department.

(C) Members shall have the opportunity to meet and confer with the Chief or Mayor regarding an evaluation and make written comments concerning the evaluation.

(D) Performance evaluations shall become a part of the officer's personnel file.
(Ord. 62791-A, passed 6-27-91)

§ 38.071 UNIFORMS.

(A) All sworn officers shall be neat in appearance and well groomed while in uniform.

(B) The number of uniforms that may be purchased annually by each officer shall be determined during the city's annual budget process, and any expenditures for uniforms shall be included in the budget.
(Ord. 62791-A, passed 6-27-91)

§ 38.072 ANNUAL, MANDATORY TRAINING.

Each officer and the Chief will decide the training programs he/she will attend each year. Officers must stay at the sleeping facilities provided during the training.
(Ord. 62791-A, passed 6-27-91)

§ 38.073 SHIFT CHANGE PROCEDURES.

(A) Incoming officers must sign in before the officer on duty signs out; incoming officers shall check in with outgoing officer either by radio or in person at the police station.

(B) All pertinent information must be passed on to the incoming officer.
(Ord. 62791-A, passed 6-27-91)

§ 38.074 POLICE STATION SECURITY.

Only personnel on official business shall be allowed in the police station (including off-duty police officers).

(Ord. 62791-A, passed 6-27-91)

§ 38.075 CARE AND MAINTENANCE OF VEHICLES.

(A) Each officer is responsible for the maintenance (including preventive maintenance) and cleanliness of vehicle during his/her assigned shift, and is subject to inspection without notice.

(B) Officers shall obtain approval of the Chief before work is performed on the vehicle, except in emergency situations.

(C) Accurate mileage and maintenance records shall be kept by each officer for the vehicle used during shift, and records shall be turned in to the Chief at the end of each shift.

(Ord. 62791-A, passed 6-27-91)

§ 38.076 USE OF POLICE VEHICLES.

(A) Police vehicles may be used for official business only during officers scheduled shift.

(B) Only authorized personnel (other officers, city employees, or prisoners) are allowed in the vehicle at any time.

(C) Vehicles must not be taken outside the city limits without specific prior approval of the Chief for official business only, with the following exceptions:

(1) Chase; or

(2) To respond to request for assistance from other agencies in emergency situation.

(D) Officers may use extra police vehicle (if available) for travel to annual mandatory training, but travel shall be limited to one round trip per week.

(Ord. 62791-A, passed 6-27-91)

§ 38.077 USE OF POLICE RADIOS.

(A) Police radios shall be used for official business only. Idle chatter, obscene language, or anything not related to police business shall be prohibited.

(B) All officers shall use the accepted procedure for talking on police radios.

(C) Radios for entertainment are allowed in police vehicles, but shall not interfere with police operations.
(Ord. 62791-A, passed 6-27-91)

§ 38.078 POLICE ACTIVITY LOG.

(A) Each officer shall keep a thorough and accurate account of all on-duty activities.

(B) Each log shall include officer's name, day, date, and miles driven. If arrests are made, the log shall give name, charge, and disposition of each prisoner.

(C) The log shall be completed prior to the end of shift and turned in daily.
(Ord. 62791-A, passed 6-27-91)

§ 38.079 CHASING VEHICLES.

Police officers shall not chase other vehicles without certainty that someone in the vehicle is endangering lives.
(Ord. 62791-A, passed 6-27-91)

§ 38.080 COOPERATION WITH OTHER POLICE DEPARTMENTS; AGENCIES.

(A) City police officers shall, whenever possible, assist other police departments/agencies in matters of emergency, even if they have to leave the city limits.

(B) Officers shall not conduct routine police work (such as working accidents, serving subpoenas, and investigations) outside the city limits unless authorized by the Chief.

(C) Officers will not honor orders from members of other police departments/agencies, unless the request for assistance/cooperation has been cleared with the Chief.
(Ord. 62791-A, passed 6-27-91)

§ 38.081 SPECIAL EQUIPMENT IN POLICE VEHICLES.

All police vehicles shall be equipped with special equipment as determined by the Chief. Each officer is responsible for insuring that such equipment is in vehicle at the beginning and ending of his/her scheduled shift.
(Ord. 62791-A, passed 6-27-91)

§ 38.082 ACCIDENT INVESTIGATION.

All injury or non-injury accidents involving police personnel or equipment shall be reported to the Chief as soon as possible after the accident.

(Ord. 62791-A, passed 6-27-91)

§ 38.083 CARE, CUSTODY AND CONTROL OF PRISONERS.

Officers shall be responsible for the treatment and control of persons in their custody. Cuts, bruises, or other apparent injuries suffered by a person arrested and/or in the officer's custody shall be given medical attention prior to incarceration if needed.

(Ord. 62791-A, passed 6-27-91)

§ 38.084 CONTROL AND CARE OF PRISONER'S PROPERTY.

Officers shall be responsible for the reasonable care of all property that prisoners have on their person or in their immediate possession at the time of arrest. The property of prisoners shall be inventoried following established departmental procedures.

(Ord. 62791-A, passed 6-27-91)

FIREARMS AND WEAPONS**§ 38.100 PROVISION OF FIREARMS; TRAINING.**

(A) All sworn officers shall provide their own weapon (either 9mm, 38, 357 caliber, or 10mm and 40 caliber) as their duty weapon. In addition, each vehicle shall be equipped with a riot gun (shotgun). Both weapon and ammunition carried shall be approved by the Chief.

(B) All sworn officers shall, under the supervision of the training officer, be required to qualify on basic firearms at least quarterly with a minimum qualification score of 70%, including both pistol and shotgun. The course used for qualifying may be either the course used by the Bureau of Training at Eastern Kentucky University, or a course designed by the Department.

(C) The Training Officer shall conduct regular firearms training on maintenance, cleaning, safety and other firearms related topics.

(Ord. 62791-A, passed 6-27-91; Am. Ord. 031693, passed 3-16-93)

§ 38.101 CIRCUMSTANCES FOR USE OF FIREARMS.

Provided there is no other reasonable alternative, officers are authorized to use firearms in the following circumstances:

(A) To defend self or others from unlawful attack with reasonable cause to believe there is imminent danger of death or serious bodily injury;

(B) To apprehend a person who is committing or has committed a felony in which deadly force has been used or threatened and when he/she has reasonable cause to believe that the felon could cause death or serious bodily injury unless immediately apprehended;

(C) To kill a dangerous animal or an animal so badly injured that humanity requires that it be removed from further suffering; or

(D) For authorized qualifying target practice or competition.
(Ord. 62791-A, passed 6-27-91)

§ 38.102 UNAUTHORIZED USE OF FIREARMS.

Officers are not authorized to use firearms in, but not limited to, the following circumstances:

(A) As a warning shot;

(B) To effect an arrest for a misdemeanor, except to defend himself/herself or another person from unlawful attack when there is reasonable cause to believe there is imminent danger of death or serious bodily injury;

(C) At or from a moving vehicle except to defend himself/herself when being fired upon, or when the occupants of a vehicle being pursued have committed a felony in which deadly force was used and there is probable cause to believe the occupants are the actual offenders; that there is reasonable cause to believe that there is imminent danger of death or serious bodily injury; that their immediate apprehension is necessary for public safety and there are no other reasonable means available to prevent their escape and secure their arrest; and

(D) Officers shall avoid the unnecessary display of firearms and not draw a firearm except when there is justification for its use to accomplish a proper police purpose. In responding to any potentially dangerous situation, officers shall carry their firearm in a position where it can be used speedily and effectively, if necessary.
(Ord. 62791-A, passed 6-27-91)

§ 38.103 DISCHARGE OF WEAPON; SUBMISSION OF REPORT.

(A) Officers who injure any person through the discharge of a firearm shall ensure that necessary steps are taken to provide the injured person with necessary medical treatment.

(B) Officers who discharge their firearm for any reason shall submit a report of the incident prior to the ending of the shift. The report shall include at least the following information:

(1) Name(s) and address(es) of any injured person(s) and witness(es) to the incident;

(2) The extent and treatment of any injuries; the hospital where treated, and the doctor(s) who provided such treatment; and

(3) The number of shots fired and the reasons and circumstances that required the use of firearm.

(C) An internal investigation and automatic suspension with pay will follow the death of a person as a result of discharging a weapon. Outside assistance may be obtained to conduct the investigation. (Ord. 62791-A, passed 6-27-91)

§ 38.104 USE OF PHYSICAL AND/OR DEADLY FORCE.

Officers shall be subject to the following provisions regarding the use of physical and/or deadly force as specified in KRS § 503.090.

(A) The use of physical force by a defendant upon another person is justifiable when the defendant, acting under official authority, is making or assisting in making an arrest, and he/she:

(1) Believes that such force is necessary to effect the arrest;

(2) Makes known the purpose of the arrest or believes that it is otherwise known or cannot reasonably be made known to the person to be arrested; and

(3) Believes the arrest to be lawful.

(B) The use of deadly force by a defendant upon another person is justifiable under division (A) when:

(1) The defendant, in effecting the arrest, is authorized to act as a peace officer;

(2) The arrest is for a felony involving the use or threatened use of physical force likely to cause death or serious physical injury; or

(3) The defendant believes that the person to be arrested is likely to endanger human life unless apprehended without delay.

(C) The use of physical force, including deadly physical force, by a defendant upon another person is justifiable when the defendant is preventing the escape of an arrested person and when force could justifiably have been used to effect the arrest under which the person is in custody, except that a guard or other person authorized to act as a peace officer is justified in using any force, including deadly force, which he/she believes to be necessary to prevent the escape of a person from jail, prison, or other institution for detention of persons charged with or convicted of a crime.

(Ord. 62791-A, passed 6-27-91)

CANONS OF POLICE ETHICS

§ 38.120 PRIMARY RESPONSIBILITY OF JOB.

The primary responsibility of the police service, and of the individual officers, is the protection of the people of the United States through the upholding of their laws; chief among these is the Constitution of the United States and its amendments. The law enforcement officer also represents the whole of the community and its legally expressed will and is never the arm of any political party or clique.

(Ord. 62791-A, passed 6-27-91)

§ 38.121 LIMITATIONS OF AUTHORITY.

The first duty of law enforcement officers, as upholders of the law, is to know its bounds upon them in enforcing it. Because they represent the legal will of the community, be it local, state or federal, they must be aware of the limitations and prescriptions which the people, through law, have placed upon them. They must recognize the genius of the American system of government which gives no person, groups of persons, or institutions, absolute power, and they must insure that they, as prime defenders of that system, do not prevent its character.

(Ord. 62791-A, passed 6-27-91)

§ 38.122 FAMILIARITY WITH LAW; RESPONSIBILITIES OF SELF AND OTHER PUBLIC OFFICIALS.

Law enforcement officers shall assiduously apply themselves to the study of the principles of the law which they are sworn to uphold. They shall make certain of their responsibilities in the particulars of their enforcement, seeking aid from their superiors in matters of technicality or principle when these

are not clear to them; they will make special effort to fully understand their relationship to other public officials, including other law enforcement agencies, particularly on matters of jurisdiction, both geographically and substantively.
(Ord. 62791-A, passed 6-27-91)

§ 38.123 UTILIZATION OF PROPER MEANS TO GAIN PROPER ENDS.

Law enforcement officers shall be mindful of their responsibility to pay strict heed to the selection of means in discharging the duties of their offices. Violations of law or disregard for public safety and property on the part of any officer are intrinsically wrong; they are self-defeating in that they instill in the public mind a like disposition. The employment of illegal means, no matter how worthy the end, is certain to encourage disrespect for the law and its officers. If the law is to be honored, it must first be honored by those who enforce it.
(Ord. 62791-A, passed 6-27-91)

§ 38.124 COOPERATION WITH PUBLIC OFFICIALS IN DISCHARGE OF AUTHORIZED DUTIES.

Law enforcement officers shall cooperate fully with other public officials in the discharge of authorized duty regardless of party affiliation or personal prejudice. They shall be meticulous, however, in assuring themselves of propriety under the law, of such actions and shall guard against the use of their office or person, whether knowingly or unknowingly, in any improper or illegal action. In any situation open to question, they shall seek authority from their superior officers, giving them a full report of the proposed service or action.
(Ord. 62791-A, passed 6-27-91)

§ 38.125 PRIVATE CONDUCT.

(A) Law enforcement officers shall be mindful of their special identification by the public as upholders of the law. Laxity of conduct or manner in private life, expressing either disrespect for the law or seeking to gain special privilege, cannot but reflect upon the police officer and the police service. The community and the service require that the law enforcement officer lead the life of a decent and honorable person. Following the career of a police officer gives no person special prerequisites.

(B) It does give the satisfaction and pride of following and furthering an unbroken tradition of safeguarding the American republic. The officer who reflects upon this tradition will not degrade. Rather, they will so conduct their private lives that the public will regard them as an example of stability, fidelity and morality.
(Ord. 62791-A, passed 6-27-91)

§ 38.126 CONDUCT TOWARD THE PUBLIC.

Law enforcement officers, mindful of their responsibility to the whole community shall deal with individuals of the community in a manner calculated to instill respect for its laws and its police service. Law enforcement officers shall conduct their official life in a manner such as will inspire confidence and trust. Thus, they will be neither overbearing nor subservient, as no individual citizen has an obligation to stand in awe of them nor a right to command them. The officers shall give service where they can, and require compliance with the law. They will do neither from personal preference or prejudice but rather as duly appointed officers of the law discharging their sworn obligation.

(Ord. 62791-A, passed 6-27-91)

§ 38.127 CONDUCT IN ARRESTING; DEALING WITH LAW VIOLATORS.

Law enforcement officers shall use their powers of arrest strictly in accordance with the law and with due regard for the rights of the citizens concerned. Their office gives them no right to persecute the violator nor to mete out punishment for the offense. They shall, at all times, have a clear appreciation of their responsibilities and limitations regarding detention of the violator; they shall conduct themselves in such a manner as to minimize the possibility of having to use force. To this end they shall cultivate a dedication to the service of the people and the equitable upholding of their laws whether in the handling of law violators or in dealing with the law abiding.

(Ord. 62791-A, passed 6-27-91)

§ 38.128 REFUSAL OF GIFTS AND FAVORS.

Law enforcement officers, representing government, bear the heavy responsibility of maintaining, in their own conduct, the honor and integrity of all institutions. They shall, therefore, guard against placing themselves in a position in which any person can expect special consideration or in which the public can reasonably assume that special consideration is being given. Thus, they shall be firm in refusing gifts, favors, or gratuities, large or small, which can, in the public mind, be interpreted as capable of influencing their judgment in the discharge of their duties.

(Ord. 62791-A, passed 6-27-91)

§ 38.129 PRESENTATION OF EVIDENCE.

(A) Law enforcement officers shall be concerned equally in the prosecution of the wrongdoer and the defense of the innocent. They shall ascertain what constitutes evidence and shall present such evidence impartially and without malice. In so doing they will ignore social, political, and other social distinctions among the persons involved, strengthening the tradition of the reliability and integrity of the officer's word.

(B) Law enforcement officers shall take special pain to increase their perception and skill of observation, mindful that in many situations theirs is the sole impartial testimony to the facts of the case. (Ord. 62791-A, passed 6-27-91)

§ 38.130 ATTITUDE TOWARD PROFESSION.

Law enforcement officers shall recognize the discharge of their duties as a public trust and recognize their responsibility as public servants. By diligent study and sincere attention to self-improvement they shall strive to make the best possible application of science to the solution of crime, and in the field of human relationships, strive for effective leadership in public influence in matters affecting public safety. They shall appreciate the importance of responsibility of their office, hold police work to be an honorable profession rendering valuable service to their community and their country. (Ord. 62791-A, passed 6-27-91)

AUXILIARY POLICE FORCE

§ 38.145 ESTABLISHMENT.

There is hereby established, according to KRS § 95.445, an eight member Auxiliary Police Force for the city. (Ord. 81682, passed 8-16-82; Am. Ord. 100783, passed 10-7-83)

§ 38.146 MEMBERSHIP SPECIFICATIONS.

(A) The members of the Auxiliary Police Force will be appointed by the Mayor and they will possess the same powers and the regular Police Department of the city.

(B) The members of the Auxiliary Police Force will not be paid other than bond or insurance which will be furnished by the city.

(C) Qualifications for the members of the Auxiliary Police Force will follow KRS § 95.710. (Ord. 81682, passed 8-16-82; Am. Ord. 100783, passed 10-7-83)

CHAPTER 39: CODE OF ETHICS

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GENERAL PROVISIONS

§ 39.01 TITLE.

This chapter shall be known and may be cited as the “City of Jackson Code of Ethics.”
(Ord. 112894, passed 11-28-94)

§ 39.02 FINDING.

The legislative body of the city finds and declares that:

(A) Public office and employment with the city are public trusts.

(B) The vitality and stability of the government of this city depends upon the public's confidence in the integrity of its elected and appointed officers and employees. Whenever the public perceives a conflict between the private interests and public duties of a city officer or employee, that confidence is imperiled.

(C) The government of this city has a duty to provide its citizens with standards by which they may determine whether public duties are being faithfully performed, and to make its officers and employees aware of the standards which the citizenry rightfully expects them to comply with while conducting their public duties.

(Ord. 112894, passed 11-28-94)

§ 39.03 PURPOSE AND AUTHORITY.

(A) It is the purpose of this chapter to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for officers and employees of the city shall be clearly established, uniform in their application, and enforceable, and to provide the officers and employees of the city with advice and information concerning potential conflicts of interest which might arise in the conduct of their public duties.

(B) It is the further purpose of this chapter to meet the requirements of KRS 65.003 as enacted by the 1994 Kentucky General Assembly.

(C) This chapter is enacted under the power vested in the city by KRS 82.082 and pursuant to requirements of KRS 65.003.

(Ord. 112894, passed 11-28-94)

§ 39.04 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSINESS. Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, professional service corporation, or any legal entity through which business is conducted for profit.

BOARD OF ETHICS. The City of Jackson Board of Ethics which is created and vested by this chapter with the responsibility of enforcing the requirements of the city's code of ethics.

CANDIDATE. Any individual who seeks nomination or election to a city office. An individual is a candidate when the individual files a notification and declaration for nomination for office with the county clerk or secretary of state, or is nominated for office by a political party, or files a declaration of intent to be a write-in candidate with the county clerk or secretary of state.

CITY. The city of Jackson, Breathitt County, Kentucky

CITY AGENCY. Any board, commission, authority, nonstock corporation, or other entity created, either individually or jointly, by this city.

EMPLOYEE. Any person, whether full-time or part-time, and whether paid or unpaid, who is employed by or provides service to the city. The term **EMPLOYEE** shall not include any contractor or subcontractor or any of their employees.

FAMILY MEMBER. A spouse, child, parent, grandparent, sibling, first cousin and immediate in-laws (same relation to spouse as indicated for employee).

IMMEDIATE FAMILY MEMBER. A spouse, an unemancipated child residing in the officer's or employee's household, or a person claimed by the officer or employee, or the officer's or employee's spouse, as a dependent for tax purposes.

OFFICER. Any person, whether full-time or part-time, and whether paid or unpaid, who is one of the following:

- (1) The Mayor.
- (2) A legislative body member.

(3) The City Clerk.

(4) Assistant City Clerk

(5) Any person who occupies a nonelected office created under KRS 83A.080.

(6) A member of the governing body of any city agency who has been appointed to the governing body of the agency by the city.
(Ord. 112894, passed 11-28-94)

STANDARDS OF CONDUCT

§ 39.15 CONFLICTS OF INTEREST IN GENERAL.

Every officer and employee of the city and every city agency shall comply with the following standards of conduct:

(A) No officer or employee, or any immediate family member of any officer or employee shall have an interest in a business or engage in any business, transaction, or activity which is in substantial conflict with the proper discharge of the officer's or employee's public duties.

(B) No officer or employee shall use or attempt to use his or her official position with the city to secure unwarranted privileges or advantages for himself or herself or others.

(C) No officer or employee shall take or refrain from taking any discretionary action, or agree to take or refrain from taking any discretionary action, or induce or attempt to induce any other officer or employee to take or refrain from taking any discretionary action, on any matter before the city in order to obtain a financial benefit for any of the following:

(1) The officer or employee.

(2) A family member.

(3) An outside employer.

(4) Any business in which the officer or employee, or any family member has a financial interest.

(5) Any business with which the officer or employee or any family member is negotiating or seeking prospective employment or other business or professional relationship.

(D) No officer or employee shall be deemed in violation of any provision in this section if, by reason of the officer's or employee's participation, vote, decision, action or inaction, no financial

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benefit accrues to the officer or employee, a family member, an outside employer, or a business as defined in division (C)(4) and (C)(5) of this section, as a member of any business, occupation, profession, or other group, to any greater extent than any gain could reasonably be expected to accrue to any other member of the business, occupation, profession, or other group.

(E) Every officer or employee who has a prohibited financial interest which the officer or employee believes or has reason to believe may be affected by his or her participation, vote, decision or other action taken within the scope of his or her public duties shall disclose the precise nature and value of the interest, in writing, to the governing body of the city or city agency served by the officer or employee, and the disclosure shall be entered on the official record of the proceedings of the governing body. The officer or employee shall refrain from taking any action with respect to the matter that is the subject of the disclosure.

(Ord. 112894, passed 11-28-94) Penalty, see § 39.99

Cross-reference:

Conflict of interest policy, see § 31.04

§ 39.16 CONFLICTS OF INTEREST IN CONTRACTS.

(A) No officer or employee of the city or any city agency shall directly or through others undertake, execute, hold, or enjoy, in whole or in part, any contract made, entered into, awarded, or granted by the city or a city agency, except as follows:

(1) The prohibition in division (A) of this section shall not apply to contracts entered into before an elected officer filed as a candidate for city office, before an appointed officer was appointed to a city or city agency office, or before an employee was hired by the city or a city agency. However, if any contract entered into by a city or city agency officer or employee before he or she became a candidate, was appointed to office, or was hired as an employee, is renewable after he or she becomes a candidate, assumes the appointed office, or is hired as an employee, then the prohibition in division (A) of this section shall apply to the renewal of the contract.

(2) The prohibition in division (A) above shall not apply if the contract is awarded after public notice and competitive bidding, unless the officer or employee is authorized to participate in establishing the contract specifications, awarding the contract, or managing contract performance after the contract is awarded. If the officer or employee has any of the authorities set forth in the preceding sentence, then the officer or employee shall have no interest in the contract, unless the requirements set forth in division (A)(3) below are satisfied.

(3) The prohibition in division (A) of this section shall not apply in any case where the following requirements are satisfied:

(a) The specific nature of the contract transaction and the nature of the officer's or employee's interest in the contract are publicly disclosed at a meeting of the governing body of the city or city agency.

(b) The disclosure is made a part of the official record of the governing body of the city or city agency before the contract is executed.

(c) A finding is made by the governing body of the city or city agency that the contract with the officer or employee is in the best interests of the public and the city or city agency because of price, limited supply, or other specific reasons.

(d) The finding is made a part of the official record of the governing body of the city or city agency before the contract is executed.

(B) Any violation of this section shall constitute a Class A misdemeanor, and upon conviction, the court may void any contract entered into in violation of this section. Additionally, a violation of this section shall be grounds for removal from office or employment with the city in accordance with any applicable provisions of state law and ordinances, rules or regulations of the city.
(Ord. 112894, passed 11-28-94) Penalty, see § 39.99

§ 39.17 RECEIPT OF GIFTS.

No officer or employee of the city or any city agency shall directly or indirectly through any other person or business solicit or accept any gift having a fair market value of more than \$500 whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence, or could reasonably be expected to influence the officer or employee in the performance of his or her public duties.

(Ord. 112894, passed 11-28-94) Penalty, see § 39.99

§ 39.18 USE OF CITY PROPERTY, EQUIPMENT AND PERSONNEL.

No officer or employee of the city shall use or permit the use of any city time, funds, personnel, equipment, or other personal or real property for the private use of any person, unless:

(A) The use is specifically authorized by a stated city policy.

(B) The use is available to the general public, and then only to the extent and upon the terms that such use is available to the general public.

(Ord. 112894, passed 11-28-94) Penalty, see § 39.99

§ 39.19 REPRESENTATION OF INTERESTS BEFORE CITY GOVERNMENT.

(A) No officer or employee of the city or any city agency shall represent any person or business, other than the city, in connection with any cause, proceeding, application or other matter pending before the city or any city agency.

(B) Nothing in this section shall prohibit an employee from representing another employee or employees where the representation is within the context of official labor union or similar representational responsibilities.

(C) Nothing in this section shall prohibit any officer or employee from representing himself or herself in matters concerning his or her own interests.

(D) No elected officer shall be prohibited by this section from making any inquiry for information on behalf of a constituent, if no compensation, reward or other thing of value is promised to, given to, or accepted by the officer, whether directly or indirectly, in return for the inquiry.
(Ord. 112894, passed 11-28-94) Penalty, see § 39.99

§ 39.20 MISUSE OF CONFIDENTIAL INFORMATION.

No officer or employee of the city or any city agency shall intentionally use or disclose information acquired in the course of his or her official duties, if the primary purpose of the use or disclosure is to further his or her personal financial interest or that of another person or business. Information shall be deemed confidential, if it is not subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.872 to 61.884, at the time of its use or disclosure.
(Ord. 112894, passed 11-28-94) Penalty, see § 39.99

FINANCIAL DISCLOSURE

§ 39.30 WHO MUST FILE.

The following classes of officers and employees of the city and city agencies shall file an annual statement of financial interests with the Board of Ethics:

(A) Elected city officials.

(B) Candidates for elected city office.

(C) Nonelected officers and employees of the city or any city agency who are authorized to make purchases of materials or services, or award contracts, leases or agreements involving the expenditure of more than \$500.
(Ord. 112894, passed 11-28-94)

§ 39.31 WHEN TO FILE STATEMENTS; AMENDED STATEMENTS.

(A) The initial statement of financial interests required by this section shall be filed with the Board of Ethics, or the administrative official designated as the custodian of its records by the Board of Ethics, no later than 4:00 p.m., January 31, 1995. All subsequent statements of financial interest shall be filed no later than 4:00 p.m. on December 31 each year, provided that:

(1) An officer or employee newly-appointed to fill an office or position of employment with the city or a city agency shall file his or her initial statement no later than 30 days after the date of the appointment.

(2) A candidate for city office shall file his or her initial statement no later than 30 days after the date on which the person becomes a candidate for elected city office.

(B) The Board of Ethics may grant a reasonable extension of time for filing a statement of financial interests for good cause shown.

(Ord. 112894, passed 11-28-94)

§ 39.32 FORM OF THE STATEMENT OF FINANCIAL INTERESTS.

The statement of financial interests shall be filed on a form prescribed by the Board of Ethics, or the administrative official designated by the Board of Ethics. The Board, or the designated administrative official, shall deliver a copy of the form to each officer and employee required to file the statement, by first class mail or hand delivery, no later than November 1 of each year. The failure of the Board, or the designated administrative official, to deliver a copy of the form to any officer or employee shall not relieve the officer or employee of the obligation to file the statement.

(Ord. 112894, passed 11-28-94)

§ 39.33 CONTROL AND MAINTENANCE OF THE STATEMENTS OF FINANCIAL INTERESTS.

(A) The Board of Ethics shall be the “official custodian” of the statements of financial interests and shall have control over the maintenance of the statements of financial interests. The statements of financial interests shall be maintained by the Board of Ethics, or the administrative official designated by the Board of Ethics as the “custodian,” as public documents available for public inspection immediately upon filing.

(B) A statement of financial interests shall be retained by the Board, or the designated administrative official, for a period of five years after filing, provided that:

(1) Upon the expiration of three years after a person ceases to be an officer or employee of the city or a city agency, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

(2) Upon the expiration of three years after any election at which a candidate for elected city office was not elected or nominated, the Board shall cause to be destroyed any statements of financial interests or copies of those statements filed by the person.

(Ord. 112894, passed 11-28-94)

§ 39.34 CONTENTS OF THE FINANCIAL INTERESTS STATEMENT.

(A) The statement of financial interests shall include the following information for the preceding calendar year:

(1) The name, current business address, business telephone number and home address of the filer.

(2) The title of the filer's office, office sought, or position of employment.

(3) The occupation of the filer and the filer's spouse.

(4) Information that identifies each source of income of the filer and the filer's immediate family members exceeding \$10,000 during the preceding calendar year, and the nature of the income (for example, salary, commission, dividends, retirement fund distribution, and the like).

(5) The name and address of any business in which the filer or any member of the filer's immediate family had at any time during the preceding calendar year an interest of \$10,000 at fair market value or 5% ownership interest or more.

(6) A designation as commercial, residential, or rural, and the location of all real property within the county, other than the filer's primary residence, in which the filer or any member of the filer's immediate family had during the preceding calendar year an interest of \$10,000 or more.

(7) Each source by name and address of gifts or honoraria having an aggregate fair market value of \$500 or more from any single source, excluding gifts received from family members, received by the filer or any member of the filer's immediate family during the preceding calendar year.

(8) The name and address of any creditor owed more than \$20,000, except debts arising from the purchase of a primary residence or the purchase of consumer goods which are bought or used primarily for person, family or household purposes.

(B) Nothing in this section shall be construed to require any officer or employee to disclose any specific dollar amounts, nor the names of individual clients or customers of businesses listed as sources of income.

(Ord. 112894, passed 11-28-94)

§ 39.35 NONCOMPLIANCE WITH FILING REQUIREMENT.

(A) The Board of Ethics, or the designated administrative official, shall notify by certified mail each person required to file a statement of financial interests who fails to file the statement by the due date, files an incomplete statement, or files a statement in a form other than that prescribed by the Board. The notice shall specify the type of failure or delinquency, shall establish a date by which the failure or delinquency shall be remedied, and shall advise the person of the penalties for a violation.

(B) Any person who fails or refuses to file the statement or who fails or refuses to remedy a deficiency in the filing identified in the notice under division (A) above within the time period established in the notice shall be guilty of a civil offense and shall be subject to a civil fine imposed by the Board in an amount not to exceed \$25 per day, up to a maximum total civil fine of \$500. Any civil fine imposed by the Board under this section may be recovered by the city in a civil action in the nature of debt if the offender fails or refuses to pay the penalty within a prescribed period of time.

(C) Any person who intentionally files a statement of financial interests which he or she knows to contain false information or intentionally omits required information shall be guilty of a Class A misdemeanor.

(Ord. 112894, passed 11-28-94) Penalty, see § 39.99

NEPOTISM

§ 39.45 NEPOTISM PROHIBITED.

(A) No officer or employee of the city or a city agency shall advocate, recommend or cause the:

- (1) Employment;
- (2) Appointment;
- (3) Promotion;
- (4) Transfer; or
- (5) Advancement

of a family member to an office or position of employment with the city or a city agency.

(B) No officer or employee of the city or a city agency shall supervise or manage the work of a family member unless said family member was hired prior to January 1, 1995.

(C) No officer or employee shall participate in any action relating to the employment or discipline of a family member, except that this prohibition shall not prevent an elected or appointed official from voting on or participating in the development of a budget which includes compensation for a family member, provided that the family member is included only as a member of a class of persons or a group, and the family member benefits to no greater extent than any other similarly situated member of the class or group.

(D) The prohibitions in this section shall not apply to any relationship or situation that would violate the prohibition, but which existed prior to January 1, 1995.

(E) No employee shall lose their job or opportunity for promotion, as a result of a family member becoming an officer or elected official after the hiring of the employee.
(Ord. 112894, passed 11-28-94)

ENFORCEMENT

§ 39.55 BOARD OF ETHICS CREATED.

(A) There is hereby created a Board of Ethics which shall have the authorities, duties, and responsibilities as set forth in this chapter to enforce the provisions of this chapter.

(B) The Board of Ethics shall consist of five members who shall be appointed by the executive authority of the city, subject to the approval of the legislative body. The initial members of the Board of Ethics shall be appointed within 60 days of the effective date of this chapter. No member of the Board of Ethics shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the city or any city agency. The members shall serve for a term of three years; except that with respect to the members initially appointed, one member shall be appointed for a term of one year, two members shall be appointed for a term of two years, and two members shall be appointed for a term of three years. Thereafter, all appointments shall be for a term of three years. Each member of the Board of Ethics shall have been a resident of the city for at least one year prior to the date of the appointment, and shall reside in the city throughout the term in office. The members of the Board of Ethics shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. The members may be re-appointed for any number of consecutive terms.

(C) A member of the Board of Ethics may be removed by the executive authority, subject to the approval of the legislative body for misconduct, inability, or willful neglect of duties. Before any member of the Board of Ethics is removed from office under this section, the member shall be afforded the opportunity for a hearing before the executive authority and the legislative body. Such a request for a hearing shall be made, in writing, to the executive authority within 30 days of the receipt of the notice of the removal.

(D) Vacancies on the Board of Ethics shall be filled within 60 days by the executive authority, subject to the approval of the legislative body. If a vacancy is not filled by the executive authority within 60 days, the remaining members of the Board of Ethics shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

(E) Members of the Board of Ethics shall serve without compensation, unless otherwise approved by the legislative body, but shall be reimbursed for all necessary and reasonable expenses incurred in the performance of their duties.

(F) The Board of Ethics shall, upon the initial appointment of its members, and annually thereafter, elect a chairperson from among the membership. The chairperson shall be the presiding officer and a full voting member of the Board.

(G) Meetings of the Board of Ethics shall be held, as necessary, upon the call of the chairperson or at the written request of a majority of the members.

(H) The presence of three or more members shall constitute a quorum and the affirmative vote of three or more members shall be necessary for any official action to be taken. Any member of the Board of Ethics who has a conflict of interest with respect to any matter to be considered by the Board shall disclose the nature of the conflict, shall disqualify himself or herself from voting on the matter, and shall not be counted for purposes of establishing a quorum.

(I) Minutes shall be kept for all proceedings of the Board of Ethics and the vote of each member on any issue decided by the Board shall be recorded in the minutes.
(Ord. 112894, passed 11-28-94)

§ 39.56 FACILITIES AND STAFF.

Within the limits of the funds appropriated by the legislative body in the annual budget, the city shall provide the Board of Ethics, either directly or by contract or agreement with the facilities, materials, supplies, and staff needed for the conduct of its business.
(Ord. 112894, passed 11-28-94)

§ 39.57 POWER AND DUTIES OF THE BOARD OF ETHICS.

The Board of Ethics shall have the following powers and duties:

(A) To initiate on its own motion, receive and investigate complaints, hold hearings and make findings of fact and determinations with regard to alleged violations of the provisions of this chapter.

(B) To issue orders in connection with its investigations and hearings requiring persons to submit in writing and under oath reports and answers to questions that are relevant to the proceedings and to order testimony to be taken by deposition before any individual designated by the Board who has the power to administer oaths.

(C) To administer oaths and to issue orders except subpoenas requiring the attendance and testimony of witnesses and the production of documentary evidence relating to an investigation or hearing being conducted by the Board.

(D) To refer any information concerning violations of this chapter to the executive authority of the city, the city legislative body, the governing body of any city agency, the county attorney, or other appropriate person or body, as necessary.

(E) To render advisory opinions to city and city agency officers and employees regarding whether a given set of facts and circumstances would constitute a violation of any provision of this chapter.

(F) To enforce the provisions of this chapter with regard to all officers and employees of the city and city agencies who are subject to its terms by issuing appropriate orders and imposing penalties authorized by this chapter.

(G) To control and maintain all statements of financial interests that are required to be filed by this chapter and to insure that the statements are available for public inspection in accordance with the requirements of this chapter and the Kentucky Open Records Act.

(H) To develop and submit any reports regarding the conduct of its business that may be required by the executive authority or legislative body of the city.

(I) To adopt rules and regulations and to take other actions, as necessary, to implement the provisions of this chapter, provided that the rules, regulations, and actions are not in conflict with the provisions of this chapter or any state or federal law.

(Ord. 112894, passed 11-28-94)

§ 39.58 FILING AND INVESTIGATION OF COMPLAINTS.

(A) All complaints alleging any violation of the provisions of this chapter shall be submitted to the Board of Ethics, or the administrative official designated by the Board of Ethics. All complaints shall be in writing, signed by the complainant, and shall meet any other requirements established by the Board of Ethics. The Board of Ethics shall acknowledge receipt of a complaint to the complainant within ten working days from the date of receipt. The Board shall forward within ten working days to each officer or employee of the city or city agency who is the subject of the complaint a copy of the complaint and a general statement of the applicable provisions of this chapter.

(B) Within 30 days of the receipt of a proper complaint, the Board of Ethics shall conduct a preliminary inquiry concerning the allegations contained in the complaint. The Board shall afford a person who is the subject of the complaint an opportunity to respond to the allegations in the complaint. The person shall have the right to be represented by counsel, to appear and be heard under oath, and to offer evidence in response to the allegations.

(C) All proceedings and records relating to a preliminary inquiry being conducted by the Board of Ethics shall be confidential until a final determination is made by the Board, except:

(1) The Board may turn over to the Commonwealth's attorney or county attorney evidence which may be used in criminal proceedings.

(2) If the alleged violator publicly discloses the existence of a preliminary inquiry, the Board may publicly confirm the existence of the inquiry, and, at its discretion, make public any documents which were issued to either party.

(D) The Board shall make a determination based on its preliminary inquiry whether the complaint is within its jurisdiction and, if so, whether it alleges a minimal factual basis to constitute a violation of this chapter. If the Board concludes that the complaint is outside of its jurisdiction, frivolous or

without factual basis, the Board shall immediately terminate the inquiry, reduce the conclusion to writing, and transmit a copy of its decision to the complainant and to all officers or employees against whom the complaint was filed.

(E) If the Board of Ethics concludes, based upon its preliminary inquiry, that the complaint is within its jurisdiction and contains allegations sufficient to establish a minimal factual basis to constitute a violation, the Board shall notify the officer or employee who is the subject of the complaint and may:

(1) Due to mitigating circumstances such as lack of significant economic advantage or gain by the officer or employee, lack of economic loss to the city and its taxpayers, or lack of significant impact on public confidence in city government issue, in writing, a confidential reprimand to the officer or employee concerning the alleged violation and provide a copy of the confidential reprimand to the executive authority and governing body of the city or city agency.

(2) Initiate a hearing to determine whether there has been a violation.

(F) Any person who knowingly files with the Board a false complaint alleging a violation of any provision of this chapter by an officer or employee of the city or any city agency shall be guilty of a Class A misdemeanor. Any violation of this section shall be reported to the county attorney within 30 days after the finding by the Board Chairman.

(Ord. 112894, passed 11-28-94) Penalty, see § 39.99

§ 39.59 NOTICE OF HEARINGS.

If the Board of Ethics determines that a hearing regarding allegations contained in the complaint is necessary, the Board shall issue an order setting the matter for a hearing within 30 days of the date the order is issued, unless the alleged violator petitions for and the Board consents to a later date. The order setting the matter for hearing, along with a copy of any pertinent regulations of the Board relating to the hearing shall be sent to the alleged violator within 24 hours of the time the order setting a hearing is issued.

(Ord. 112894, passed 11-28-94)

§ 39.60 HEARING PROCEDURE.

(A) The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall not apply to hearings conducted by the Board of Ethics; however, the hearings shall be conducted in accordance with this section and in accordance with any additional rules and regulations adopted by the Board so as to afford all parties the full range of due process rights required by the nature of the proceedings.

(B) Prior to the commencement of the hearing, the alleged violator, or his or her representative, shall have a reasonable opportunity to examine all documents and records obtained or prepared by the Board in connection with the matter to be heard. The Board shall inform the alleged violator, or his or her representative, of any exculpatory evidence in its possession.

(C) All testimony in a Board hearing shall be taken under oath, administered by the presiding officer. All parties shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses, to submit evidence, and to be represented by counsel. All witnesses shall have the right to be represented by counsel.

(D) Any person whose name is mentioned during the hearing and who may be adversely affected thereby may appear personally before the Board, with or without counsel, to give a statement regarding the adverse mention, or may file a written statement regarding the adverse mention for incorporation into the record of the proceeding.

(E) All hearings of the Board of Ethics shall be public, unless the members vote to go into executive session in accordance with KRS 61.810.

(F) After the conclusion of the hearing, the Board of Ethics shall, as soon as practicable, begin deliberations in executive session for the purpose of reviewing the evidence before it and making a determination whether a violation of this chapter has been proven. Within 30 days after completion of the hearing, the Board shall issue a written report of its findings and conclusions.

(G) If the Board concludes in its report that no violation of this chapter has occurred, it shall immediately send written notice of this determination to the officer or employee who was the subject of the complaint and to the party who filed the complaint.

(H) If the Board concludes in its report that in consideration of the evidence produced at the hearing there is clear and convincing proof of a violation of this chapter, the Board may:

(1) Issue an order requiring the violator to cease and desist the violation.

(2) In writing, publicly reprimand the violator for the violations and provide a copy of the reprimand to the executive authority and governing body of the city or city agency with which the violator serves.

(3) In writing, recommend to the executive authority and the governing body (if different than the executive authority) that the violator be sanctioned as recommended by the Board, which may include a recommendation for discipline or dismissal, or removal from office.

(4) Issue an order requiring the violator to pay a civil penalty of not more than \$1,000 (as set forth in § 39.99).

(5) Refer evidence of criminal violations of this chapter or state laws to the county attorney or Commonwealth's attorney of the jurisdiction for prosecution.

(Ord. 112894, passed 11-28-94) Penalty, see § 39.99

§ 39.61 APPEALS.

Any person who is found guilty of a violation of any provision of this chapter by the Board of Ethics may appeal the finding to the circuit court of the county within 30 days after the date of the final action by the Board of Ethics by filing a petition with the court against the Board. The Board shall transmit to the clerk of the court all evidence considered by the Board at the public hearing.

(Ord. 112894, passed 11-28-94)

§ 39.62 LIMITATION OF ACTIONS.

Except when the period of limitation is otherwise established by state law, an action for a violation of this chapter must be brought within one year after the violation is discovered, but no more than three years after the violation occurred.

(Ord. 112894, passed 11-28-94)

§ 39.63 ADVISORY OPINIONS.

(A) The Board of Ethics may render advisory opinions concerning matters under its jurisdiction, based upon real or hypothetical facts and circumstances, upon its own initiative, or when requested by any officer or employee of the city or a city agency who is covered by this chapter.

(B) An advisory opinion shall be requested in writing and shall state relevant facts and ask specific questions. The request for an advisory opinion shall remain confidential unless confidentiality is waived, in writing, by the requestor.

(C) The Board may adopt regulations, consistent with the Kentucky Open Records Law, to establish criteria under which it will issue confidential advisory opinions. All other advisory opinions shall be public documents, except that before an advisory opinion is made public, it shall be modified so that the identity of any person associated with the opinion shall not be revealed.

(D) The confidentiality of an advisory opinion may be waived either:

(1) In writing by the person who requested the opinion.

(2) By majority vote of the members of the Board, if a person makes or purports to make public the substance or any portion of an advisory opinion requested by or on behalf of the person. The Board may vote to make public the advisory opinion request and related materials.

(E) A written advisory opinion issued by the Board shall be binding on the Board in any subsequent proceeding concerning the facts and circumstances of the particular case if no intervening facts or circumstances arise which would change the opinion of the Board if they had existed at the time the opinion was rendered. However, if any fact determined by the Board to be material was omitted or misstated in the request for an opinion, the Board shall not be bound by the opinion.

(F) A written advisory opinion issued by the Board shall be admissible in the defense of any criminal prosecution or civil proceeding for violations of this chapter for actions taken in reliance on that opinion.

(Ord. 112894, passed 11-28-94)

§ 39.64 REPRISALS AGAINST PERSONS DISCLOSING VIOLATIONS PROHIBITED.

(A) No officer or employee of the city or any city agency shall subject to reprisal, or directly or indirectly use, or threaten to use, any official authority or influence in any manner whatsoever which tends to discourage, restrain, deter, prevent, interfere with, coerce, or discriminate against any person who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Board of Ethics or any other agency or official of the city or the Commonwealth any facts or information relative to an actual or suspected violation of this chapter.

(B) This section shall not be construed as:

(1) Prohibiting disciplinary or punitive action if an officer or employee of the city or any city agency discloses information which he or she knows:

(a) To be false or which he or she discloses with reckless disregard for its truth or falsity.

(b) To be exempt from required disclosure under the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884.

(c) Is confidential under any other provision of law.

(Ord. 112894, passed 11-28-94)

§ 39.99 PENALTY.

(A) Except when another penalty is specifically set forth in this chapter, any officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provision of this chapter shall be deemed guilty of a civil offense and may be subject to a civil fine imposed by the Board of Ethics not to exceed \$1,000, which may be recovered by the city in a civil action in the nature of debt if the offender fails to pay the penalty within a prescribed period of time.

(B) In addition to all other penalties which may be imposed under this chapter, any officer or employee of the city or any city agency who is found by the Board of Ethics to have violated any provision of this chapter shall forfeit to the city or the city agency an amount equal to the economic benefit or gain which the officer or employee is determined by the Board to have realized as a result of the violation. The amount of any forfeiture may be recovered by the city in a civil action in the nature of debt, if the offender fails to pay the amount of the forfeiture within a prescribed period of time.

(C) In addition to all other penalties which may be imposed under this chapter, a finding by the Board of Ethics that an officer or employee of the city or any city agency is guilty of a violation of this chapter shall be sufficient cause for removal, suspension, demotion, or other disciplinary action by the executive authority of the city or city agency, or by any other officer or agency having the power of removal or discipline. Any action to remove or discipline any officer or employee for a violation of this chapter shall be taken in accordance with all applicable ordinances and regulations of the city and all applicable laws of the Commonwealth.

(Ord. 112894, passed 11-28-94)

TABLE OF SPECIAL ORDINANCES

Table

- I. ANNEXATIONS AND DE-ANNEXATIONS**
- II. BOND ISSUES**
- III. CONTRACTS AND AGREEMENTS**
- IV. EASEMENTS**
- V. FRANCHISES**
- VI. REAL ESTATE TRANSACTIONS**

TABLE I: ANNEXATIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
1958-9	11-3-58	Annexing certain territory beginning at the water edge of the river at the mouth of Bridge Branch (the present city limits); thence up the river with its low waterline to opposite the point above Redbird Hollow.
—	12-15-59	Annexing certain territory beginning at the water edge of the river at the mouth of Bridge Branch; thence up the river bank and across Highway No. 15 and on up the point beyond Bridge Branch to the top of the point between Bridge Branch and the river.
—	4-25-65	De-annexing or excluding from the city certain territory beginning at the river edge 50 feet below the Old L.N. Pump Station.
—	10-30-71	Annexing certain property beginning at the existing city limits where Miller's Branch crosses Old Route 15, thence eastward to the junction of #15 and the Mountain Parkway.
—	- -72	Annexing certain property beginning at the present city limits, at the Kentucky River near the Cut-Off; thence down said river as it meanders to the property line of Roy Terry and the City Sewerage Disposal Plant.
2272	6-4-73	Annexing certain territory beginning at a point in the north right-of-way of the Department of Highways, corner to Jackson Cemetery, Inc.
11276A	12-13-76	Annexing certain territory beginning at a point in the western boundary line of the County Road Right-of-way, corner to Barnett; thence in a southerly direction for two call.

Jackson - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
11276B	12-13-76	Annexing certain territory beginning at a point in the north right-of-way line of Ky. Highway No. 15, said point being a corner to the Wm. Hurst and W.D. Back Heirs properties.
51479	5-14-79	Annexing certain territory beginning at a stake 50 feet from the center line of the Louisville and Nashville Railroad, formerly Lexington and Eastern Railroad, and on the hillside near the coal bank on the branch known as the John Riley Branch.
7979	7-9-79	Annexing certain territory being all of the Watershed of Cripple Creek, principally acquired by deeds to Russell C. Reynolds by H.C. Vires et al and dated 12-17-73.
081286	8-12-86	Annexing certain property being all property along Kentucky 15 at the north end of the city, current boundary being the North Jackson Development and Kentucky Fried Chicken Restaurant.
081286A	8-12-86	Annexing certain property being all property lying between and including Panbowl Road and its right-of-way and Lakeside Estates Subdivision and the property known as the Jett Farm, which is the current city limits.
112486	11-24-86	Annexing certain property beginning at the northern edge of the Kentucky 15 and Kentucky 30 intersection and running north along and including Kentucky 15 and its right-of-way to the north fork of the Kentucky River, the distance of 3,260 feet.
030287	3-2-87	Annexing certain property beginning at the intersection of Kentucky 15 and 1812 at the southern edge of the present city limits and following Kentucky 15 and its right-of-way south toward Hazard, Kentucky the distance of approximately 5,100 feet to the south end of the present Jackson Village Shopping Center.

Annexations and De-annexations

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
041988	4-19-88	Annexing certain property beginning at the southern edge of the present city limits at the area known as the Jackson Village including and following Kentucky 15 and its right-of-way approximately 3,400 feet to and including the property owned by Larry, Mary and Linda Campbell.
41691-A	4-16-91	Annexing certain property beginning on a stake in the County Road and corner to Tract No. 8-A; thence with the line of Tract No. 8-A southwesterly to a stake on the bank of north fork of Kentucky River.
101499	10-14-99	Annexing certain property beginning at the western edge of the present city limits in the center of the North Fork of Kentucky River on Kentucky Highway 30 and following Kentucky 30 and its right of way approximately 7,697 feet.
092100	9-21-00	Annexing certain property beginning at the present city boundaries running with the center line of Highway 15 South to the property lines of Kentucky River Community Care, Inc., and as to include all the property owned by Kentucky River Community Care, Inc.
092100-A	9-21-00	Annexing certain property along Kentucky Highway 30 West, including the property lines of Life Care Ambulance Service, the residence of Mr. and Mrs. Randy and Pamela Watts, the residence of Mr. and Mrs. Ralph and Paula Watts.
042805	4-28-05	Annexing certain property adjacent to Kentucky River Community Care property (belonging to the Free Pentecostal Church of Kragon); certain property located at the intersection of Ky Highway 30 and Highway

Jackson - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
042805 (cont'd)	4-28-05	52 (belonging to Paul and Judy Mullins); and property located on Highway 15 South (belonging to Family Medical Specialty Clinic PLLC).
060905	6-9-05	Annexing certain property adjacent to Kentucky Highway 30 and belonging to the First Church of God of Jackson, KY Inc.
062306	4-26-07	Annexing certain property along Kentucky Highway 17 Jackson-Campton Road); on the North Fork of the Kentucky River (Anna Lee Deaton, Charles and Wanda Price property); beginning at the centerline of Kentucky Highway 15 (Steven and Kim Howard property); on Cane Creek (Paul and Judy Mullins property); on Meeting House Branch of North Fork of the Kentucky River (Family Medical Clinic PLLC); on Cane Creek (Methodist Mountain Missions in Kentucky, Inc.); on the North Fork of the Kentucky River and on Kentucky Highway 15 (Free Pentecostal Church of God, Inc.); and on Kentucky Highway 30 (First Church of God of Jackson, Kentucky, Inc.)
062306A	5-24-07	Amending legal descriptions in Ord. 062306.
052407	5-24-07	Annexing parcel Ky #15 Jackson-Campton Road Station comprised of multiple properties belonging to Anna Lee Deaton, Charles and Wanda Price; Dr. Steven Howard and Kim Howard; Paul and Judy Mullins; Family Medical Specialty Clinic, PLLC; Methodist Mountain Missions in Kentucky, Inc.; Free Pentecostal Church of God Inc.; and First Church of God of Jackson, Kentucky Inc.
062317	6-23-17	Annexing certain property described as Tractor Supply Co. (D P Properties) Highway 15 North.

TABLE II: BOND ISSUES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
—	11-9-39	Providing for the issuance of \$20,000 refunding waterworks bonds of the city.
1943-3	—	Providing for the issuance of \$30,000 voted general obligation funding bonds of the city.
1953-3	11-2-53	Authorizing and providing for the issuance of Waterworks Revenue Bonds of the city to the amount of \$200,000 for the purpose of acquiring a municipal waterworks and setting forth the terms and conditions on which said bonds and additional bonds ranking on a parity are to be and may be issued and outstanding.
—	7-6-64	Authorizing a project for additions, extensions, and improvements to the municipal water system, and establishing a public project consisting of the extension of water mains and the enlargement of the water plant and appurtenant facilities; authorizing the financing thereof (to the extent funds are not otherwise provided) through the issuance by the city of \$71,000 of its waterworks revenue bonds of 1963.
—	8-14-64	Amending certain provisions of Ordinance passed 7-6-64, an ordinance authorizing the issuance of the city's waterworks revenue bonds of 1963.
—	3-6-67	Providing for the issuance and sale of \$70,000 of city school building revenue bonds, dated April 1, 1967.

Jackson - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
—	7-22-99	Providing for the issuance and sale of \$140,000 of waterworks revenue bonds, series 1999, for the purpose of financing the cost of the construction of extensions, additions and improvements to the existing waterworks system.
—	12-9-99	Providing for the issuance of general obligation bonds for the purpose of financing improvements to Douthitt Park.
111909	11-19-09	Approving the issuance of general obligation refunding bonds, series 2009 in the approximate amount of \$915,000 for the purpose of refinancing a certain public project.
051911	5-26-11	Providing for the issuance of general obligation notes, series 2011 for the purposes of providing interim financing to fund a floating indebtedness.
062812	--12	Providing for the issuance of general obligation notes, series 2012 for the purpose of providing interim financing to fund a floating indebtedness.
062013	6-20-13	Providing for the issuance of revenue anticipation notes, series 2013.
052214B	6-26-14	Providing for the issuance of revenue anticipation notes, series 2014.
101614	10-23-14	Authorizing general obligation notes, series 2014B to finance the cost to acquire real estate for the city.
061815	6-19-15	Providing for the issuance of revenue anticipation notes, series 2015.
051916	5-31-16	Providing for the issuance of revenue anticipation notes, series 2016.

Bond Issues

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
111716	11-17-16	Authorizing the issuance of water and sewer revenue bonds, series 2016 in the principal amount of \$650,000.
051817A	5-19-17	Providing for the issuance of revenue anticipation notes, series 2017.
062118A	6-21-18	Providing for the issuance of revenue anticipation notes, series 2018.
062019A	6-25-19	Providing for the issuance of revenue anticipation notes, series 2019.

TABLE III: CONTRACTS AND AGREEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
—	6-26-61	Cooperation agreement between the municipality and the local authority providing for aid and cooperation in respect to low-rent housing projects developed and to be developed and operated by the local authority with the financial assistance of the Public Housing Administration.
—	10-2-61	Amending a certain cooperation agreement dated 6-26-61.
—	- -64	Amending a certain cooperation agreement dated 6-26-61.
013090	1-30-90	Authorizing the execution of a supplemental lease agreement with the City Public Properties Corporation.
062791-C	6-27-91	Authorizing the execution of a lease agreement with the City Public Properties Corporation.
013090-B	1-30-90	Authorizing negotiation of contract to repair the roof of City Hall.
61593	6-15-93	Authorizing execution of the <i>Interlocal Cooperation Agreement to Establish the Kentucky Municipal Risk Management Association</i> .
112102	11-21-02	Approving a lease with the Kentucky League of Cities Funding Trust for property and establishing a sinking fund.
092607	9-27-07	Approving a lease with the Kentucky League of Cities Funding Trust not to exceed \$450,000 for a public project and establishing a sinking fund.

Jackson - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
082808	9-24-08	Approving a lease with the Kentucky League of Cities Funding Trust not to exceed \$550,000 for a public project and establishing a sinking fund.
090612	9-6-12	Approving a lease for the financing of a project, providing for the payment and security of the lease and creating a sinking fund.
052313A	5-23-13	Approving a lease for the financing of a project, providing for the payment and security of the lease and creating a sinking fund.

TABLE IV: EASEMENTS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
—	1-9-80	Granting an easement to the city, its successors and assigns, a perpetual easement with the right of ingress and egress thereto at all times for the purpose of constructing and thereafter operating, maintaining and reconstructing water lines and appurtenant structures, which water lines shall be a part of the water systems of the city.
020480	2-4-80	Granting easement in all streets and city property to the water plant for the purpose of constructing and maintaining the water system.

TABLE V: FRANCHISES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
90985	9-9-85	Granting a franchise to the Kentucky Power Company, its successors and assigns the privilege, right and authority to supply electric energy to the city for a period of 20 years.
082505	08-25-05	Granting a franchise to Kentucky Power Company, dba American Electric Power, the privilege, right and authority to supply electric energy to the city for a period of 20 years.
092712	9-27-12	Creating non-exclusive franchise for a cable television system not to exceed one year.

TABLE VI: REAL ESTATE TRANSACTIONS

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
113098	11-30-98	Condemning certain real estate for public purposes, beginning at a point on the North Fork of the Kentucky River below the existing Jackson City Park.

PARALLEL REFERENCES

**References to Kentucky Revised Statutes
References to Ordinances**

REFERENCES TO KENTUCKY REVISED STATUTES

<i>KRS Section</i>	<i>Code Section</i>
6.050	33.01
6.955 - 6.975	33.04
Ch. 13B	116.03
15.520	38.052
16.220	72.21
Ch. 18	31.20
18A.225(2)	113.03
Ch. 31	34.16
41.240(4)	33.05
42.450 - 42.495	33.04
Ch. 45A	34.16
Ch. 56	34.16
Ch. 61	32.21
61.810	39.60
61.870	34.01
61.870 - 61.882	31.36
61.870 - 61.884	34.17, 39.64
61.872 - 61.884	39.20
61.872(4)	34.06
61.872(5)	34.07
61.872(6)	34.08
61.874(1) - (3)	34.12
61.874(3), (4)	34.13
61.874(5)	34.14
61.874(6)	34.15
61.878	34.01, 34.16
61.878(1)	34.16
61.880(1)	34.09, 34.16
61.884	34.11
62.020	31.01
65.003	39.03
65.067	31.01
65.120	71.99
66.660	91.20
82.082	39.03
Ch. 83A	31.20
83A.010(5)	10.02
83A.010(6)	10.02

Jackson - Parallel References

<i>KRS Section</i>	<i>Code Section</i>
83A.010(8)	10.02
83A.030(1)	30.02
83A.040(1), (2), (6)	31.21
83A.040(2)(c)	31.21
83A.040(2)(d)	31.21
83A.040(3)	31.21
83A.040(4)	32.01
83A.040(5)	32.02
83A.040(6)	32.02
83A.040(7)	31.21, 32.02
83A.040(8)	31.21, 32.02
83A.040(9)	31.03
83A.050	31.20
83A.060(1)	32.35
83A.060(10)	32.44
83A.060(11)	32.45
83A.060(12), (13)	32.46
83A.060(14)	32.47
83A.060(15)	33.01
83A.060(2)	32.36
83A.060(3)	32.37
83A.060(4), (7)	32.38
83A.060(5)	32.40
83A.060(6)	32.22
83A.060(8)	32.41, 32.42
83A.060(9)	32.43
83A.070	31.02
83A.075	31.02
83A.080	39.04
83A.080(1), (2)	31.35
83A.080(2)	31.03
83A.080(3), (4)	31.20
83A.085	31.36
83A.087	92.09
83A.130	31.21
83A.130(1)	30.01
83A.130(2)	30.02
83A.130(3)	31.21
83A.130(4)	31.21
83A.130(5)	32.20
83A.130(6)	32.39
83A.130(7)	31.21
83A.130(8)	31.21
83A.130(9)	31.21, 37.048

<i>KRS Section</i>	<i>Code Section</i>
83A.130(10)	31.21
83A.130(11)	32.03, 32.21
83A.130(12)	32.03
83A.130(13)	32.03
83A.175	32.02
91A.010(6)	33.01
91A.010(7)	33.01
91A.010(8)	10.02
91A.020	33.02
91A.030	33.03
91A.040(1), (6), (9)	33.04
91A.050	33.04
91A.060	33.05
91A.200	33.11
91A.210	33.11
91A.220	33.11
91A.230	33.12
91A.240	33.13
91A.250	33.14
91A.260	33.15
91A.270	33.17
91A.280	33.17
91A.290	33.18
91A.350	115.02
91A.350 - 91A.400	115.03
91A.360(1)(a) - (e)	115.02
91A.390	115.20
91A.400	115.20
95.445	38.145
95.710	38.054, 38.146
95.740	38.054
95.760	38.054
96.934	52.20
Ch. 100	151.01
100.201	152.003
100.201 - 100.271	152.001
100.211	152.185
100.213	152.186
100.217	152.155
100.237	152.021, 152.156
100.321	152.187

Jackson - Parallel References

<i>KRS Section</i>	<i>Code Section</i>
100.344	152.021
100.650	152.172
Ch. 107	33.11
131.010(6)	113.04
131.190	34.16
132.285	35.01
134.800	35.04
134.810	35.04
Ch. 136	35.06
136.120	110.03, 110.22
Ch. 151	151.05
151.250	151.05, 151.06
Ch. 154	34.16
174.100	91.35
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174.100(5)	91.40
174.100(6), (7)	91.40
177.041 - 177.047	91.75
177.905 - 177.990	152.051
178.290	91.20
186.020	72.21
186.043	92.08
186A.145	72.21
186A.190	72.21
189.020	71.27
189.285	73.02
189.287	73.01
189.290	71.25
189.330(8)	71.02
189.338	70.15
189.450(5)	72.03
189.450(6)	72.03
189.580	71.15
189.725	72.08
189.930	71.26
189.990(1)	72.99
189.993(8)	71.99
Ch. 198B	150.04
198B.070	150.04
198B.990(1)	150.99
224.830, 224.835	51.042
224.835	51.041

<i>KRS Section</i>	<i>Code Section</i>
224.887	51.001
226.010	112.01
226.020	112.02
226.030	112.07
226.040	112.03
226.050	112.04
226.060	112.08
226.070	112.03
226.080	112.05
226.090	112.07
226.100	112.08
226.990(1)	112.99
226.990(3)	112.99
227.700 - 227.750	93.01, 93.06
227.700	93.01
227.702	93.01, 93.02
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227.706	93.01
227.708	93.01
227.710	93.02
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227.715(6) - (8)	93.03
227.720	93.04
227.730	93.05
227.750	93.06
227.990(1)	150.99
227.990(4)	93.99
Ch. 241 - 244	116.01, 116.03, 116.04, 116.07, 116.08
241.010(31)	116.02
241.100	116.03
241.160	116.03
241.170	116.03
241.200	116.04
Ch. 243	110.03, 116.02, 116.08
243.070	116.02
243.072	116.02
243.075	116.02
243.090	116.02
243.260	116.02
243.450	116.04
243.480	116.99
243.490	116.04
243.500	116.04
243.550	116.04
243.850	116.04

Jackson - Parallel References

<i>KRS Section</i>	<i>Code Section</i>
243.895	116.06
244.050	116.08
244.085	116.07
244.085(6)	116.07
244.090	116.06, 116.07
244.090(2)	116.06
244.130	116.12
244.150	116.03
244.500	116.06
281.605(12)	72.21
281.920 - 281.936	72.21
281.926	72.21
281.928	72.21
281.928(1)	72.21
281.932	72.21
318.990	150.99
Ch. 350	151.05
359.230	72.21
376.275(1), (2)	72.21
376.275(3)	72.22
411.500 - 411.570	Ch. 92
Ch. 424	32.43, 33.04, 33.14, 33.15, 116.04, 152.157, 152.185
424.170	116.04
424.220	33.04
431.005	92.09
446.010(1)	10.02
446.010(2)	10.02
446.010()	10.02
446.010(10)	10.02
446.010(12)	10.02
446.010(13)	10.02
446.010(14)	10.02
446.010(15)	10.02
446.010(17)	10.02
446.010(18)	10.02
446.010(23)	10.02
446.010(24)	10.02
446.010(27)	10.02
446.010(28)	10.02
446.010(30)	10.02
446.010(31)	10.02
446.010(33)	10.02
446.010(37)	10.02
446.010(39)	10.02

<i>KRS Section</i>	<i>Code Section</i>
446.010(43)	10.02
446.010(46)	10.02
446.010(47)	10.02
446.010(49)	10.02
446.020(1)	10.03
446.020(2)	10.03
446.030	10.04
446.050	10.05
446.060	10.06
446.080(1)	10.03
446.080(3)	10.03
446.080(4)	10.03
446.090	10.07
446.100	10.08
446.110	10.09
446.140	10.01
503.090	38.104
511.080	116.08
512.020 - 512.040	50.007
527.020	132.01

REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
—	--	130.02
—	11-9-39	T.S.O. II
1940-2	- -40	91.59
1941-4	- -41	Ch. 74, Sch. I, II
1943-3	--	T.S.O. II
1946-2	- -46	Ch. 74, Sch. I, II; 72.03
1946-4	- -46	130.01
1946-6	11-4-46	72.50 - 72.62, 72.99
1953-3	11-2-53	T.S.O. II
1958-2	3-3-58	Ch. 74, Sch. I, II
1958-4	3-3-58	Ch. 74, Sch. I
1958-9	11-3-58	T.S.O. I
1959-2	- -59	91.75
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<i>District</i>	<i>Maximum Height of Buildings (Feet)</i>	<i>Minimum Lot Area When Served By Public Sanitary Sewer (Sq. Ft.)</i>	<i>Minimum Lot Area When Not Served by Public Sanitary Sewer (Sq. Ft.)</i>	<i>Maximum Percentage of Lot Area Which May Be Covered by All Buildings (%)</i>	<i>Minimum Lot Width at Front Yard Line (Feet)</i>	<i>Minimum Front Yard (Feet)</i>	<i>Minimum Side Yard (Feet)</i>	<i>Minimum Rear Yard (Feet)</i>
R-1	30' or 2 stories			45	70	25	15	20
							Accessory buildings shall be 5' from all lots lines and all other buildings	
R-2	30' (1) or 2 stories			50	Single-family 50 Multiple-family 65	25	10	15
		Minimum area for multiple-family dwellings shall be the single-family minimum plus 35% of that minimum for each additional dwelling unit.					Accessory buildings shall be 5' from all lot lines and all other buildings.	
C-1	40' or 4 stories			55		40	30' 40(2)	30(3)
C-2	50' or 5 stories							
I-1		1 acre or 43,560 sq. ft.		55	100	75(4)	25(4)	50(4)
<p>1) Height of building may be increased up to 50' provided each side yard is increased by the same amount over the required yard minimum that the building height is increased over the 30' maximum height.</p> <p>2) On side adjacent to a residential zoning district.</p> <p>3) Where the rear yard abuts any residential zoning district, a rear yard of at least 40 feet shall be provided.</p> <p>4) No industrial building shall be located closer than 100' to a residential district.</p>								